General Assembly **Amendment**

January Session, 2001 LCO No. **8642**

Offered by:
REP. LAWLOR, 99th Dist.

To: Subst. Senate Bill No. **1046** File No. 576 Cal. No. 585

"AN ACT CONCERNING THE REVISOR'S CORRECTIONS TO THE GENERAL STATUTES AND CERTAIN PUBLIC ACTS."

After line 2851, insert the following and renumber the remaining section accordingly:

"Sec. 101. Subdivision (3) of subsection (a) of section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof:

(3) "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons (i) who exercise operational authority over the daily affairs of the enterprise, (ii) who have the power to direct the management and policies and receive the beneficial interest of the enterprise, and (iii) who are members of a minority, as such term is defined in subsection (a) of section 32-9n, (B) who is an individual with a disability, or (C) which is a nonprofit corporation in which fifty-one per cent or more of the persons who (i) exercise operational authority over the enterprise, and (ii) have the power to

direct the management and policies of the enterprise are members of a minority, as defined in this subsection, or are individuals with a disability.

Sec. 102. Subdivision (5) of subsection (a) of section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof:

(5) "Control" means the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract or through any other direct or indirect means. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, twenty per cent or more of any voting securities of another person.

Sec. 103. Subsection (j) of section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof:

(j) In lieu of a performance, bid, labor and materials or other required bond, a contractor or subcontractor awarded a contract under this section may provide to the awarding authority, and the awarding authority **[**,**]** shall accept, a letter of credit. Any such letter of credit shall be in an amount equal to ten per cent of the contract for any contract that is less than one hundred thousand dollars and in an amount equal to twenty-five per cent of the contract for any contract that exceeds one hundred thousand dollars.

Sec. 104. Section 4-124o of the general statutes is repealed and the following is substituted in lieu thereof:

The planning duties and responsibilities of a regional council of governments, including the making of a plan of development pursuant to section 8-35a, may be carried out by the council or a regional planning commission, acting on behalf of and as a subdivision of the council. Each member shall be entitled to a representative on the regional planning commission who shall be an elector of such member

and on its planning commission. Such representative shall be appointed by such planning commission, with the concurrence of the appointing authority of such member. Each member may also appoint an alternate representative who shall be an elector of such member and who shall be appointed by its planning commission, with the concurrence of the appointing authority of such member. Such alternate representative shall, when the representative of the member from which he or she was appointed is absent, have all the powers and duties of such representative. Each regional planning commission representative shall be entitled to one vote in the affairs of such commission but shall not otherwise be entitled to vote in the affairs of the council. All matters referred to the council which by statute or otherwise are required to be referred to and considered by a regional planning agency shall be considered and commented upon by the council or regional planning commission in accordance with procedures recommended by such commission and adopted by the council with the concurrence of such commission. The council shall have the authority, at the request of a party having referred any such matter to the council's attention, to review and revise, in whole or in part, the comments and recommendations of the regional planning commission as to such matter. If at any time the council is deemed a regional council of elected officials under subsection (d) of section 4-124l, the existence of such regional planning commission shall terminate forthwith.

Sec. 105. Section 7-127b of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The chief elected official or the chief executive officer if by ordinance of each municipality shall appoint a municipal agent for elderly persons. Such agent shall be a member of the municipality's commission on aging, if any, a member of another agency that serves elderly persons, an elected official of the state or the municipality or a responsible resident of the municipality who has demonstrated an interest in the elderly or has been involved in programs in the field of aging.

(b) Each municipal agent shall (1) disseminate information to elderly persons and assist such persons in learning about the community resources available to them and publicize such resources and benefits; (2) assist elderly persons in applying for federal and other benefits available to such persons; (3) submit written reports at least annually to the chief elected official, chief executive officer, legislative body and committee or commission on aging of the municipality, if any, and to the **[**state**]** Department of Social Services on the services they have provided, the needs and problems of the elderly and any recommendations for municipal action with regard to elderly persons.

(c) Each municipal agent shall serve for a term of two or four years, at the discretion of the appointing authority of each municipality, and may be reappointed. If more than one agent is necessary to carry out the purposes of this section, the appointing authority, in **[**his**]** the discretion of such appointing authority, may appoint one or more assistant agents. The town clerk in each municipality shall notify the **[**state**]** Department of Social Services immediately of the appointment of a new municipal agent. Each municipality may provide to its municipal agent resources sufficient for such agent to perform the duties of the office.

(d) The **[**state**]** Department of Social Services shall be responsible for assuring that the provisions of this section are being carried out by municipalities, and shall adopt and disseminate to municipalities guidelines as to the role and duties of municipal agents and such informational and technical materials to assist such agents in performance of their duties. Said department shall provide training for municipal agents in accordance with their needs and the resources of the department and in cooperation with area agencies on aging. The department shall sponsor at least one training session in each of the planning and service areas of the Department of Social Services. Such training shall include, but not be limited to, information, from updated lists, on the availability of housing. Each municipal agent shall attend at least one such session. Said department shall assist such agents to

develop and maintain simple records about the needs of elderly persons and the services provided to them, which records shall be confidential and used only to provide data that is useful to the **[**state**]** Department of Social Services and the area agencies on aging in the preparation of the annual state and area plans.

Sec. 106. Subsections (b) and (c) of section 7-131d of the general statutes are repealed and the following is substituted in lieu thereof:

(b) Grants may be made under the protected open space and watershed land acquisition grant program established under subsection (a) of this section or under the charter oak open space grant program **[**account**]** established under section 7-131t to match funds for the purchase of land or permanent interests in land which purchase meets one of the following criteria: (1) Protects land identified as being especially valuable for recreation, forestry, fishing, conservation of wildlife or natural resources; (2) protects land which includes or contributes to a prime natural feature of the state's landscape, including, but not limited to, a shoreline, a river, its tributaries and watershed, an aquifer, mountainous territory, ridgelines, an inland or coastal wetland, a significant littoral or estuarine or aquatic site or other important geological feature; (3) protects habitat for native plant or animal species listed as threatened or endangered or of special concern, as defined in section 26-304; (4) protects a relatively undisturbed outstanding example of a native ecological community which is now uncommon; (5) enhances and conserves water quality of the state's lakes, rivers and coastal water; (6) preserves local agricultural heritage; or (7) in the case of grants to water companies, protects land which is eligible to be classified as class I land or class II land after acquisition. The commissioner may make a grant under the protected open space and watershed land acquisition grant program to a distressed municipality or a targeted investment community, as defined in section 32-9p, for restoration or protection of natural features or habitats on open space already owned by the municipality, including, but not limited to, wetland or wildlife or plant habitat restoration or restoration of other sites to a more natural condition, or

replacement of vegetation, provided the total amount of grants to such municipalities for such purposes may not exceed twenty per cent of the total amount of grants made in any fiscal year.

(c) No grant may be made under the protected open space and watershed land acquisition grant program established under subsection (a) of this section or under the charter oak open space grant program **[**account**]** established under section 7-131t for: (1) Land to be used for commercial purposes or for recreational purposes requiring intensive development, including, but not limited to, golf courses, driving ranges, tennis courts, ballfields, swimming pools and uses by motorized vehicles other than vehicles needed by water companies to carry out their purposes, provided trails or pathways for pedestrians, motorized wheelchairs or nonmotorized vehicles shall not be considered intensive development; (2) land with environmental contamination over a significant portion of the property provided grants for land requiring remediation of environmental contamination may be made if remediation will be completed before acquisition of the land or any interest in the land and an environmental assessment approved by the Commissioner of Environmental Protection has been completed and no environmental use restriction applies to the land; (3) land which has already been committed for public use; (4) development costs, including, but not limited to, construction of ballfields, tennis courts, parking lots or roadways; (5) land to be acquired by eminent domain; or (6) reimbursement of in-kind services or incidental expenses associated with the acquisition of land. This subsection shall not prohibit the continuation of agricultural activity, the activities of a water company for public water supply purposes or the selling of timber incidental to management of the land which management is in accordance with approved forest management practices provided any proceeds of such timber sales shall be used for management of the land. In the case of land acquired under this section which is designated as a state park, any fees charged by the state for use of such land shall be used by the state in accordance with the provisions of title 23 or section 22a-27h.

Sec. 107. Subsection (b) of section 7-131e of the general statutes is repealed and the following is substituted in lieu thereof:

(b) There is established a Natural Heritage, Open Space and Watershed Land Acquisition Review Board to assist and advise the commissioner in carrying out the provisions of sections 7-131d to 7-131g, inclusive, and sections 23-73 to 23-79, inclusive. Upon establishment of the review board and selection of a chairman under this section, the review board (1) shall provide comments on selection criteria, policies and procedures; (2) shall promote public participation; **[**and**]** (3) shall provide guidance and conduct review of strategies for land protection, including strategies under section 23-8; (4) shall review and evaluate grant award policies and procedures; and (5) may provide comments on any application for funds not later than forty-five days after such application is submitted to the chairman. Upon establishment of the board, the commissioner shall take such comments into consideration in making any decisions regarding such grants.

Sec. 108. Section 7-400 of the general statutes is repealed and the following is substituted in lieu thereof:

The treasurer of any municipality, as defined in section 7-359, upon approval by the budget-making authority, as defined in said section, of any metropolitan district, of any regional school district, of any district as defined in section 7-324, and of any other municipal corporation or authority authorized to issue bonds, notes or other obligations under the provisions of the general statutes or any special act may invest the proceeds received from the sale of bonds, notes or other obligations, or other funds, including the general fund, as hereinafter provided:

(1) In (A) the obligations of the United States of America, including the joint and several obligations of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Savings and Loan Insurance Corporation, obligations of the United States Postal

Service, all the federal home loan banks, all the federal land banks, all the federal intermediate credit banks, the Central Bank for Cooperatives, The Tennessee Valley Authority, or any other agency of the United States government, or (B) shares or other interests in any custodial arrangement, pool or no-load, open-end management-type investment company or investment trust registered or exempt under the Investment Company Act of 1940, 15 USC Section 80a-1 et seq. as from time to time amended, provided (i) the portfolio of such custodial arrangement, pool, investment company or investment trust is limited to obligations described in subparagraph (A) of this subdivision and repurchase agreements fully collateralized by any such obligations; (ii) such custodial arrangement, pool, investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian; (iii) such custodial arrangement or pool is managed to maintain its shares at a constant net asset value or such investment company or investment trust is rated within one of the top two credit rating categories and, for any investment company or investment trust not managed to maintain its shares at a constant net asset value, within one of the top two risk rating categories of any nationally recognized rating service or of any rating service recognized by the Commissioner of Banking; and (iv) the municipal corporation or authority only purchases and redeems shares or other interests in such investment company or investment trust through the use of, or the custodian of such custodial arrangement or pool is, a bank, as defined in section 36a-2, or an out-of-state bank, as defined in said section, having one or more branches in this state.

(2) In the obligations of any state of the United States or of any political subdivision, authority or agency thereof, provided that at the time of investment such obligations are rated within one of the top two rating categories of any nationally recognized rating service or of any rating service recognized by the **[**state**]** Commissioner of Banking.

(3) In the obligations of the state of Connecticut, or any regional school district, town, city, borough or metropolitan district in the state of Connecticut, provided that at the time of investment the obligations

of such government entity are rated within one of the top three rating categories of any nationally recognized rating service or of any rating service recognized by the Commissioner of Banking.

Sec. 109. Section 7-423 of the general statutes is repealed and the following is substituted in lieu thereof:

Any municipality or other political subdivision of the state may enter into an agreement with the **[**state**]** Commissioner of Administrative Services to procure the technical services available in the **[**state**]** Department of Administrative Services for the establishment or continuation of local administration of a merit system. Any such agreement shall provide for the reimbursement of the state for the actual cost of such services and overhead, as determined by the commissioner.

Sec. 110. Subsection (d) of section 8-2j of the general statutes is repealed and the following is substituted in lieu thereof:

(d) All applications for new construction and substantial reconstruction within the district and in view from public roadways shall be subject to review and recommendation by an architect or architectural firm, landscape architect, or planner who is a member of the American Institute of Certified Planners selected and contracted by the commission and designated as the village district consultant for such application. Alternatively, the commission may designate as the village district consultant for such application an architectural review board whose members shall include at least one architect, landscape architect or planner who is a member of the American Institute of Certified Planners. The village district consultant shall review an application and report to the commission within thirty-five days of receipt of the application. Such report and recommendation shall be entered into the public hearing record and considered by the commission in making **[**their**]** its decision. Failure of the village district consultant to report within the specified time shall not alter or delay any other time limit imposed by the regulations.

Sec. 111. Subsection (f) of section 8-2j of the general statutes is repealed and the following is substituted in lieu thereof:

(f) If [the] a commission grants or denies an application, it shall state upon the record the reasons for its decision. If a commission denies an application, the reason for the denial shall cite the specific regulations under which the application was denied. Notice of the decision shall be published in a newspaper having a substantial circulation in the municipality. An approval shall become effective in accordance with subsection (b) of section 8-3c.

Sec. 112. Section 8-8 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) As used in this section:

(1) "Aggrieved person" means a person aggrieved by a decision of a board and includes any officer, department, board or bureau of the municipality charged with enforcement of any order, requirement or decision of the board. In the case of a decision by a zoning commission, planning commission, combined planning and zoning commission or zoning board of appeals, "aggrieved person" includes any person owning land that abuts or is within a radius of one hundred feet of any portion of the land involved in the decision of the board.

(2) "Board" means a municipal zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or other board or commission the decision of which may be appealed pursuant to this section, or the chief elected official of a municipality, or [his] such official's designee, in a hearing held pursuant to section 22a-250, whose decision may be appealed.

(b) Except as provided in subsections (c), (d) and (q) of this section and sections 7-147 and 7-147i, any person aggrieved by any decision of a board may take an appeal to the superior court for the judicial district in which the municipality is located. The appeal shall be commenced by service of process in accordance with subsections (e)

and (f) of this section within fifteen days from the date that notice of the decision was published as required by the general statutes. The appeal shall be returned to court in the same manner and within the same period of time as prescribed for civil actions brought to that court.

(c) In those situations where the approval of a planning commission must be inferred because of the failure of the commission to act on an application, any aggrieved person may appeal under this section. The appeal shall be taken within twenty days after the expiration of the period prescribed in section 8-26d for action by the commission.

(d) Any person affected by an action of a planning commission taken under section 8-29 may appeal under this section. The appeal shall be taken within thirty days after notice to **[**him**]** such person of the adoption of a survey, map or plan or the assessment of benefits or damages.

(e) Service of legal process for an appeal under this section shall be directed to a proper officer and shall be made by leaving a true and attested copy of the process with, or at the usual place of abode of, the chairman or clerk of the board, and by leaving a true and attested copy with the clerk of the municipality. Service on the chairman or clerk of the board and on the clerk of the municipality shall be for the purpose of providing legal notice of the appeal to the board and shall not thereby make the chairman or clerk of the board or the clerk of the municipality a necessary party to the appeal.

(f) Service of process shall also be made on each person who petitioned the board in the proceeding, provided **[**his**]** such person's legal rights, duties or privileges were determined therein. However, failure to make service within fifteen days on parties other than the board shall not deprive the court of jurisdiction over the appeal. If service is not made within fifteen days on a party in the proceeding before the board, the court, on motion of the party or the appellant, shall make such orders of notice of the appeal as are reasonably

calculated to notify the party not yet served. If the failure to make service causes prejudice to the board or any party, the court, after hearing, may dismiss the appeal or may make such other orders as are necessary to protect the party prejudiced.

(g) The appeal shall state the reasons on which it has been predicated and shall not stay proceedings on the decision appealed from. However, the court to which the appeal is returnable may grant a restraining order, on application, and after notice to the board and cause shown.

(h) Within thirty days after the return date to court, or within any further time the court allows, the board shall transmit the record to the court. The record shall include, without limitation, (1) the original papers acted on by the board and appealed from, or certified copies thereof, (2) a copy of the transcript of the stenographic or sound recording prepared in accordance with section 8-7a, and (3) the written decision of the board including the reasons therefor and a statement of any conditions imposed. If the board does not provide a transcript of the stenographic or the sound recording of a meeting where the board deliberates or makes a decision on a petition, application or request on which a public hearing was held, a certified, true and accurate transcript of a stenographic or sound recording of the meeting prepared by or on behalf of the applicant or any other party shall be admissible as part of the record. By stipulation of all parties to the appeal, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for additional costs. The court may require or permit subsequent corrections or additions to the record.

(i) Any defendant may, at any time after the return date of the appeal, make a motion to dismiss the appeal. If the basis of the motion is a claim that the appellant lacks standing to appeal, the appellant shall have the burden of proving his <u>or her</u> standing. The court may, on the record, grant or deny the motion. The court's order on the motion may be appealed in the manner provided in subsection (n) of

this section.

(j) The court shall review the proceedings of the board and shall allow any party to introduce evidence in addition to the contents of the record if (1) the record does not contain a complete transcript of the entire proceedings before the board, including all evidence presented to it, pursuant to section 8-7a, or (2) it appears to the court that additional testimony is necessary for the equitable disposition of the appeal. The court may take the evidence or may appoint a referee or committee to take such evidence as it directs and report the same to the court, with **[**his or its**]** any findings of facts and conclusions of law. Any report of a referee or committee shall constitute a part of the proceedings on which the determination of the court shall be made.

(k) The court, after a hearing thereon, may reverse or affirm, wholly or partly, or may modify or revise the decision appealed from. If a particular board action is required by law, the court, on sustaining the appeal, may render a judgment that modifies the board decision or orders the particular board action. In an appeal from an action of a planning commission taken under section 8-29, the court may also reassess any damages or benefits awarded by the commission. Costs shall be allowed against the board if the decision appealed from is reversed, affirmed in part, modified or revised.

(l) Appeals from decisions of the board shall be privileged cases and shall be heard as soon as is practicable unless cause is shown to the contrary.

(m) No appeal taken under subsection (b) of this section shall be withdrawn and no settlement between the parties to any such appeal shall be effective unless and until a hearing has been held before the Superior Court and such court has approved such proposed withdrawal or settlement.

(n) There shall be no right to further review except to the Appellate Court by certification for review, on the vote of two judges of the Appellate Court so to certify and under such other rules as the judges

of the Appellate Court establish. The procedure on appeal to the Appellate Court shall, except as otherwise provided herein, be in accordance with the procedures provided by rule or law for the appeal of judgments rendered by the Superior Court unless modified by rule of the judges of the Appellate Court.

(o) The right of a person to appeal a decision of a board to the Superior Court **[**,**]** and the procedure prescribed in this section **[**,**]** shall be liberally interpreted in any case where a strict adherence to these provisions would work surprise or injustice. The appeal shall be considered to be a civil action and, except as otherwise required by this section or the rules of the Superior Court, pleadings may be filed, amended or corrected, and parties may be summoned, substituted or otherwise joined, as provided by the general statutes.

(p) If any appeal has failed to be heard on its merits because of insufficient service or return of the legal process due to unavoidable accident or the default or neglect of the officer to whom it was committed, or the appeal has been otherwise avoided for any matter of form, the appellant shall be allowed an additional fifteen days from determination of that defect to properly take the appeal. The provisions of section 52-592 shall not apply to appeals taken under this section.

(q) In any case in which a board fails to comply with a requirement of a general or special law, ordinance or regulation governing the content, giving, mailing, publishing, filing or recording of any notice either of a hearing or of an action taken by the board, any appeal or action by an aggrieved person to set aside the decision or action taken by the board on the grounds of such noncompliance shall be taken within two years of the date of that decision or action.

Sec. 113. Section 8-132 of the general statutes is repealed and the following is substituted in lieu thereof:

Any person claiming to be aggrieved by the statement of compensation filed by the redevelopment agency may, at any time

within six months after the same has been filed, apply to the superior court for the judicial district in which such property is situated, or, if said court is not in session, to any judge thereof, for a review of such statement of compensation so far as the same affects such applicant, and said court or such judge, after causing notice of the pendency of such application to be given to said redevelopment agency, shall appoint a state referee to make a review of the statement of compensation. Such referee, having given at least ten days' notice to the parties interested of the time and place of hearing, shall hear the applicant and said redevelopment agency, shall view the property and take such testimony as such referee deems material and shall thereupon revise such statement of compensation in such manner as **[**he**]** such referee deems proper and forthwith report to the court. Such report shall contain a detailed statement of findings by the referee, sufficient to enable the court to determine the considerations upon which the **[**referee based his**]** referee's conclusions are based. The report of the referee shall take into account any evidence relevant to the fair market value of the property, including evidence of environmental condition and required environmental remediation. The referee shall make a separate finding for remediation costs and the property owner shall be entitled to a setoff of such costs in any pending or subsequent action to recover remediation costs for the property. Such report may be rejected for any irregular or improper conduct in the performance of the duties of such referee. If the report is rejected, the court or judge shall appoint another referee to make such review and report. If the report is accepted, such statement of compensation shall be conclusive upon such owner and the redevelopment agency. If no appeal to the Appellate Court is filed within the time allowed by law, or if one is filed and the proceedings have terminated in a final judgment finding the amount due the property owner, the clerk shall send a certified copy of the statement of compensation and of the judgment to the redevelopment agency, which shall, upon receipt thereof, pay such property owner the amount due **[**him**]** as compensation. The pendency of any such application for review shall not prevent or delay whatever action is

proposed with regard to such property by the project area redevelopment plan.

Sec. 114. Section 9-187 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The terms of office of elective municipal officers, when not otherwise prescribed by law, shall be for two years from the date on which such terms begin as set forth in section 9-187a and until their successors are elected and have qualified. When not otherwise prescribed by law, the terms of those town officers appointed by the board of selectmen shall expire on the termination date of the term of the board of selectmen appointing such officers.

(b) The terms of office of elected chief executive officers, members of boards of selectmen and the members of the legislative body of any town, city or borough as prescribed by charter or ordinance shall be two years or four years from the date or dates on which such **[**term begins**]** terms begin as set forth in section 9-187a, and until their successors are elected and have qualified. The provisions of this subsection shall not be construed to authorize an ordinance prescribing terms of office to supersede the provisions of a charter concerning such terms of office.

(c) The **[**terms**]** term of office of any tax collector appointed pursuant to an ordinance adopted under the provisions of subsection (b) of section 9-189 shall be as provided in such ordinance.

Sec. 115. Section 9-189a of the general statutes is repealed and the following is substituted in lieu thereof:

Notwithstanding the provisions of sections 9-189 and 9-190a, any town or municipality may, by charter or ordinance, provide that the treasurer or the town clerk of said town or municipality, or the registrars of voters of said town, or any of such officers, shall, at the next succeeding regular election for such office and thereafter, be elected for a term of four years. In such event, such four-year term

shall begin on the first Monday of January succeeding [his] an election [in the case of a] for treasurer or town clerk, except as provided in section 9-187a, and from the Wednesday following the first Monday of January succeeding [their] an election [in the case of] for registrars of voters, provided, if any such town or municipality holds its town or municipal election on the first Monday of May of the odd-numbered years, the term of such treasurer or town clerk shall begin on the first day of July following [his] the election, except as provided in section 9-187a.

Sec. 116. Section 12-107c of the general statutes is repealed and the following is substituted in lieu thereof:

(a) An owner of land may apply for its classification as farm land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before [nor] or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is farm land and, if [he] such assessor determines that it is farm land, he or she shall classify and include it as such on the grand list. In determining whether such land is farm land, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous.

(b) An application for classification of land as farm land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504e, inclusive, and such other information as the assessor may require to aid [him] the assessor

in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as farm land within the time limit prescribed in subsection (a) and in the manner and form prescribed in subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial of any application for the classification of land as farm land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

Sec. 117. Section 12-107d of the general statutes is repealed and the following is substituted in lieu thereof:

(a) An owner of land may file a written application with the State Forester for its designation by the State Forester as forest land. When such application has been made, the State Forester shall examine such application and, if **[**he**]** the State Forester determines that it is forest land, **[**he**]** said forester shall issue a triplicate certificate designating it as such, and file one copy of such certificate in **[**his**]** the State Forester's office, furnish one to the owner of the land and file one in the office of the assessor of the municipality in which the land is located.

(b) When the State Forester finds that it is no longer forest land, **[**he**]** the State Forester shall issue a triplicate certificate cancelling **[**his**]** the designation of such land as forest land, and file one copy of such certificate in **[**his**]** the State Forester's office, furnish one to the owner of the land and file one in the office of such assessor.

(c) An owner of land designated as forest land by the State Forester may apply for its classification as forest land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before **[**nor**]** or later than thirty days after the assessment date and, if the State Forester has not cancelled **[**his**]** the designation of such land as forest land as of a

date at or prior to the assessment date such assessor shall classify such land as forest land and include it as such on the grand list, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date in such year.

(d) An application to the State Forester for designation of land as forest land shall be made upon a form prescribed by the State Forester and approved by the Commissioner of Environmental Protection and shall set forth a description of the land and such other information as the State Forester may require to aid **[**him**]** in determining whether such land qualifies for such designation. An application to an assessor for classification of land as forest land shall be made upon a form prescribed by such assessor and approved by the Commissioner of Environmental Protection and shall set forth a description of the land and the date of the issuance by the State Forester of **[**his**]** the certificate designating it as forest land and a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504e, inclusive.

(e) Failure to file an application for classification of land as forest land within the time limit prescribed in subsection (c) and in the manner and form prescribed in subsection (d) shall be considered a waiver of the right to such classification on such assessment list.

(f) The municipality within which land designated as forest land by the State Forester is situated or the owner of land which the State Forester has refused to designate as such may appeal from the decision of the State Forester to the superior court for the judicial district within which such municipality is situated. Such appeal shall be taken within thirty days after the issuance of the certificate designating such land as forest land or the refusal to issue such certificate, as the case may be, and shall be brought by petition in writing with proper citation signed by competent authority to the adverse party at least twelve days before the return day. The Superior Court shall have the same powers with respect to such appeals as are provided in the general statutes with respect to appeals from boards of assessment appeals.

(g) An owner of land aggrieved by the denial of any application to the assessor of a municipality for classification of land as forest land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

Sec. 118. Subsection (b) of section 12-107e of the general statutes is repealed and the following is substituted in lieu thereof:

(b) An owner of land included in any area designated as open space land upon any plan as finally adopted may apply for its classification as open space land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before **[**nor**]** or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether there has been any change in the area designated as an area of open space land upon the plan of development which adversely affects its essential character as an area of open space land and, if **[**he**]** the assessor determines that there has been no such change, **[**he**]** said assessor shall classify such land as open space land and include it as such on the grand list. An application for classification of land as open space land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of section 12-504a to 12-504e, inclusive, and such other information as the assessor may require to aid **[**him**]** in determining whether such land qualifies for such classification.

Sec. 119. Section 12-111 of the general statutes is repealed and the following is substituted in lieu thereof:

Any person, including any lessee of real property whose lease has been recorded as provided in section 47-19 and who is bound under

the terms of a lease to pay real property taxes and any person to whom title to such property has been transferred since the assessment date, claiming to be aggrieved by the doings of the assessors of such town may appeal therefrom to the board of assessment appeals. Such appeal shall be filed, in writing, on or before February twentieth. The written appeal shall include, but is not limited to, the property owner's name, name and position of the signer, description of the property which is the subject of the appeal, name and mailing address of the party to be sent all correspondence by the board of assessment appeals, reason for the appeal, appellant's estimate of value, signature of property owner, or duly authorized agent of the property owner, and date of signature. The board shall notify each aggrieved taxpayer who filed a written appeal in the proper form and in a timely manner, no later than March first immediately following the assessment date, of the date, time and place of the appeal hearing. Such notice shall be sent no later than seven calendar days preceding the hearing date except that the board may elect not to conduct an appeal hearing for any commercial, industrial, utility or apartment property with an assessed value greater than five hundred thousand dollars. The board shall, not later than March first, notify the appellant that the board has elected not to conduct an appeal hearing. The board shall determine all such appeals and send written notification of the final determination of such appeals to each such person within one week after such determination has been made. Such written notification shall include information describing the property owner's right to appeal the determination of such board. Such board may equalize and adjust the grand list of such town and may increase or decrease the assessment of any taxable property or interest therein and may add an assessment for property omitted by the assessors which should be added thereto; and may add to the grand list the name of any person omitted by the assessors and owning taxable property in such town, placing therein all property liable to taxation which it has reason to believe is owned by **[**him**]** <u>such person</u>, at the percentage of its actual valuation, as determined by the assessors in accordance with the provisions of sections 12-64 and 12-71, from the best information that it can obtain, and if such property

should have been included in the declaration, as required by section 12-42 or 12-43, it shall add thereto twenty-five per cent of such assessment; but, before proceeding to increase the assessment of any person or to add to the grand list the name of any person so omitted, it shall mail to **[**him**]** such person, postage paid, at least one week before making such increase or addition, a written or printed notice addressed to **[**him**]** such person at the town in which **[**he**]** such person resides, to appear before such board and show cause why such increase or addition should not be made.

Sec. 120. Section 12-114 of the general statutes is repealed and the following is substituted in lieu thereof:

The board of assessment appeals may adjust the assessment of personal property belonging to any person, or the valuation, number, quantity or amount of any item of property reflected therein, even if such person has refused or unnecessarily neglected to give in such person's declaration to the assessors as prescribed by law. No such adjustment shall be made until the board receives the information necessary to substantiate such adjustment in accordance with subsection (c) of section 12-53. Any assessment adjusted by such board under the provisions of this section shall be subject to the penalties **[**as**]** provided in section 12-41.

Sec. 121. Subsection (c) of section 12-117 of the general statutes is repealed and the following is substituted in lieu thereof:

(c) During any assessment year in which the provisions of subsection (b) of this section become applicable, the assessor or board of assessors shall, within sixty days of the date on which the Secretary of the Office of Policy and Management grants **[**his**]** authorization, complete the grand list as required by said subsection. Each owner whose property valuation on such grand list has been increased above the valuation of such property in the last-preceding grand list shall be sent an increase notice. The notice shall be prepared in the manner prescribed in section 12-55 and shall be sent not earlier than the date

on which said secretary grants **[**his**]** authorization and not later than the tenth day following the date on which the assessor completes the grand list as required by this subsection. If such increase notice is sent later than the time period prescribed in this subsection, such increase shall become effective on the next succeeding grand list. Any owner may appeal said valuation to the board of assessment appeals within thirty days of the date the notice was sent.

Sec. 122. Section 16-19m of the general statutes is repealed and the following is substituted in lieu thereof:

As used in sections 16-19m to **[**16-19r**]** 16-19q, inclusive:

(1) "Closing" means the time at which a nuclear power generating facility ceases to generate electricity and is retired from active service.

(2) "Decommissioning" means the series of activities undertaken beginning at the time of closing of a nuclear power generating facility to ensure that the final disposition of the site or any radioactive components or material, but not including spent fuel, associated with the facility is accomplished safely, in compliance with all applicable state and federal laws. Decommissioning includes activities undertaken to prepare such a facility for final disposition, to monitor and maintain it after closing and to effect final disposition of any radioactive components of the facility.

(3) "Decommissioning costs" means: (A) All reasonable costs and expenses of removing a nuclear power generating facility from service, including, without limitation, dismantling, mothballing, removing radioactive waste material, except spent fuel, to temporary or permanent storage sites, decontaminating, restoring and supervising the site, and any costs and expenses incurred in connection with proceedings before governmental regulatory authorities relating to the authorization to decommission the facility; (B) all costs of labor and services performed or rendered in connection with the decommissioning of the facility, and all costs of materials, supplies, machinery, construction equipment and apparatus acquired for or in

connection with the decommissioning of the facility. Any amount, exclusive of proceeds of insurance, realized by a licensee as salvage on or resale of any machinery, construction equipment and apparatus, the cost of which was charged as a decommissioning cost, shall be treated as a deduction from the amounts otherwise payable on account of the cost of decommissioning of the facility; and (C) all overhead costs applicable to the facility during the decommissioning period, including, but not limited to, taxes, other than taxes on or in respect of income; licenses; excises and assessments; casualties; surety bond premiums and insurance premiums, provided amounts expended or to be paid with respect to decommissioning a facility shall constitute part of the decommissioning costs if they are, or when paid will be, either properly chargeable to any account related to decommissioning of a facility in accordance with the systems of accounts then applicable to the licensee, or properly chargeable to decommissioning of a facility in accordance with then applicable regulations of the United States Nuclear Regulatory Commission, the federal Energy Regulatory Commission or any other regulatory agency having jurisdiction.

(4) "Licensee" means (A) the holder of the construction or operating permit from the United States Nuclear Regulatory Commission for a nuclear power generating facility located in the state, if there is only one holder of such a permit, or (B) if there are two or more holders of such a permit, those holders which are primarily responsible for the construction or operation of the facility.

(5) "Owner" means any electric utility which owns any portion of a nuclear power generating facility whether directly or through ownership of stock in a company which owns any portion of such a facility.

(6) "Electric utility" means (A) any domestic electric company, as defined in section 16-246a, (B) any foreign electric company, as defined in said section, (C) any municipal electric utility organized under chapter 101, and (D) any municipal electric energy cooperative organized under chapter 101a.

(7) "Premature closing" means the closing of a nuclear power generating facility before the projected date of decommissioning as projected in the decommissioning financing plan prepared under section 16-19n.

(8) "Prompt removal and dismantlement" means the immediate removal of radioactive or radioactively contaminated material down to allowable residual levels which permit release of the property for unrestricted access.

Sec. 123. Subsection (b) of section 17a-211 of the general statutes is repealed and the following is substituted in lieu thereof:

(b) Every two years, the department shall hold public hearings on a complete draft of the plan and, in January, 1992, and every two years thereafter, the department shall submit the final plan and a transcript of the public hearings to the joint standing committees of the General Assembly having cognizance of matters relating to public health and appropriations and the budgets of **[**states**]** state agencies.

Sec. 124. Section 17a-216 of the general statutes is repealed and the following is substituted in lieu thereof:

The Department of Mental Retardation may, within **[**the limits of**]** available appropriations, purchase wheelchairs, placement equipment and clothing which is specifically designed for handicapped persons directly and without the issuance of a purchase order, provided such purchases shall not be in excess of three thousand five hundred dollars per unit purchased. All such purchases shall be made in the open market, but shall, when possible, be based on at least three competitive bids. Such bids shall be solicited by sending notice to prospective suppliers and by posting notice on a public bulletin board within **[**said**]** the Department of Mental Retardation. Each bid shall be opened publicly at the time stated in the notice soliciting such bid. Acceptance of a bid by **[**said**]** the Department of Mental Retardation shall be based on standard specifications as may be adopted by **[**said**]** the department.

Sec. 125. Section 17a-217 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The Department of Mental Retardation shall develop **[**day-care**]** day care programs, **[**day-camp**]** day camp programs and recreational programs for **[**mentally retarded**]** children and adults with mental retardation. Any nonprofit organization which establishes or maintains **[**day-care**]** day care programs, **[**day-camp**]** day camp programs or recreational programs for **[**mentally retarded**]** children or adults with mental retardation may apply to the Department of Mental Retardation for funds to be used to assist in establishing, maintaining or expanding such programs. For the purposes of this section: (1) A **[**day-care**]** day care program (A) may provide for the care and training of preschool age children to enable them to achieve their maximum social, physical and emotional potential; (B) may provide **[**mentally retarded**]** adolescents and adults with mental retardation with an activity program which includes training in one or more of the following areas: (i) Self-care, (ii) activities of daily living, (iii) personal and social adjustment, (iv) work habits, and (v) skills, speech and language development; (2) a **[**day-camp**]** day camp program may provide **[**mentally retarded**]** children or adults with mental retardation with a supervised program of out-of-doors activities which may be conducted during all or part of the months of June, July, August and September; **[**,**]** and (3) a recreational program may provide planned and supervised recreational activities for **[**mentally retarded**]** children or adults with mental retardation, which activities may be of a social, athletic or purely diversionary nature and which programs shall be considered separate and apart from the **[**day-camp**]** day camp program described in subdivision (2) of this subsection.

(b) No grant made under this section to assist in establishing, maintaining or expanding any **[**of the above programs under the provisions**]** program set forth in subsection (a) of this section shall exceed the ordinary and recurring annual operating expenses of such program, nor shall any grant be made to pay for all or any part of capital expenditures. The Department of Mental Retardation shall: (1)

Define minimum requirements to be met by each program in order to be eligible to receive funds as provided for by this section in regard to qualification and number of staff members and program operation, including, but not limited to, physical plant and record keeping; (2) establish procedures to be used in making application for such funds; and [provide] (3) adopt regulations, in accordance with chapter 54, governing the granting of funds to assist in the establishment of [day-care] day care programs, [day-camp] day camp programs and recreational programs for [the mentally retarded] persons with mental retardation. Upon receipt of proper application, the Department of Mental Retardation, within available appropriations, may grant such funds, provided the plans for financing and the standards of operation of such programs shall be approved by [said] the department in accordance with the provisions of this section. For the purpose of developing such programs, [said] the department may accept grants from the federal government, a municipality or any other source.

Sec. 126. Section 17a-219a of the general statutes is repealed and the following is substituted in lieu thereof:

[For the purposes of] As used in this section and sections 17a-219b and 17a-219c, as amended by this act:

[(a)] (1) "Children with disabilities" means any child with a physical, emotional or mental impairment under the age of eighteen years who [(1)] (A) if under the age of five, has a severe disability and substantial developmental delay, or a specific diagnosed condition with a high probability of resulting in a developmental delay, [or (2)] (B) has a moderate, severe or profound educational disability, or [(3)] (C) otherwise meets the definition of developmental disabilities in the federal Developmental Disabilities Act, Section 102(5), as codified in 24 USC [Section] 6001(5).

[(b)] (2) "Family" means a child with a disability and [(1)] (A) one or more biological or adoptive parents, [or (2)] (B) one or more persons to whom legal custody has been given and in whose home the child

resides, or [(3)] (C) other adult family members who reside with and have a primary responsibility for providing continuous care to a child with a disability.

[(c)] (3) "Family support services" means services, cash subsidies, and goods which enhance the ability of all children with disabilities to grow within their families, to reduce the emotional and financial costs to families who care at home for children with disabilities, and to assist families of children with disabilities to find the supports, services and assistance to lead lives in their communities.

Sec. 127. Subsection (a) of section 17a-219c of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There is established a Family Support Council to assist the Department of Mental Retardation and other state agencies that administer or fund family support services to act in concert and, within available appropriations, to (1) establish a comprehensive, coordinated system of family support services, (2) use existing state and other resources efficiently and effectively as appropriate for such services, (3) identify and address [, within available appropriations,] services that are needed for families of children with disabilities, and (4) promote state-wide availability of such services. The council shall consist of twenty-seven voting members including the Commissioners of Public Health, Mental Retardation, Children and Families, Education [,] and Social Services, or their designees, the Child Advocate, the executive director of the Office of Protection and Advocacy for Persons with Disabilities, the [chair] chairperson of the State Interagency Birth-to-Three Coordinating Council, as established pursuant to [sections 17a-248, 17a-248b to 17a-248g, inclusive, 38a-490a and 38a-516c] section 17a-248b, the executive director of the Commission on Children, and family members of, or individuals who advocate for, children with disabilities. The family members or individuals who advocate for children with disabilities shall comprise two-thirds of the council and shall be appointed as follows: Six by the Governor, three by the president pro tempore of the Senate, two by the

majority leader of the Senate, one by the minority leader of the Senate, three by the speaker of the House of Representatives, two by the majority leader of the House of Representatives and one by the minority leader of the House of Representatives. **[**The initial appointments to the council shall be made on or before September 1, 1994.**]** Members shall be appointed for a term of four years. Members shall be limited to two consecutive terms. The council shall meet at least quarterly and shall select its own chairperson. **[**The initial meeting of the council shall be convened before October 1, 1994.**]** Council members shall serve without compensation but shall be reimbursed for necessary expenses incurred. The costs of administering the council shall be within available appropriations in accordance with sections 17a-219a to 17a-219c, inclusive, as amended by this act.

Sec. 128. Section 17a-220 of the general statutes is repealed and the following is substituted in lieu thereof:

As used in this section and sections 17a-221 to 17a-225, inclusive:

[(a)**]** (1) "Borrower" means an organization which has received a loan pursuant to this section and sections 17a-221 to 17a-225, inclusive;

[(b)**]** (2) "Capital loan agreement" means an agreement, in the form of a written contract, between the department and the organization which sets forth the terms and conditions applicable to the awarding of a community residential facility loan;

[(c)**]** (3) "Certification" or "certified" means certification by the Department of Public Health as an intermediate care facility for the mentally retarded pursuant to standards set forth in the rules and regulations published in Title 42, Part 442, Subpart G of the Code of Federal Regulations;

[(d)**]** (4) "Community-based" **[**refers to**]** means those programs or facilities which are not located on the grounds of, or operated by, the department;

[(e)**]** (5) "Community residential facility" means a community-based residential facility which houses up to six **[**mentally retarded or autistic**]** persons with mental retardation or autism and which provides food, shelter, personal guidance and, to the extent necessary, continuing health-related services and care for persons requiring assistance to live in the community, provided any such facilities in operation on July 1, 1985, which house more than six **[**mentally retarded or autistic**]** persons with mental retardation or autism shall be eligible for loans for rehabilitation under this section and sections 17a-221 to 17a-225, inclusive. Such facility shall be licensed and may be certified;

[(f)**]** (6) "Community Residential Facility Revolving Loan Fund" means the loan fund established pursuant to section 17a-221;

[(g)**]** (7) "Default" means the failure of the borrower to observe or perform any covenant or condition under the capital loan agreement and includes the failure to meet any of the conditions specified in section 17a-223;

[(h)**]** (8) "Department" means the Department of Mental Retardation;

[(i)**]** (9) "Loan" means a community residential facilities loan which shall bear an interest rate to be determined in accordance with subsection (t) of section 3-20, but in no event in excess of six per cent per annum, and is made pursuant to the provisions of this section and sections 17a-221 to 17a-225, inclusive;

[(j)**]** (10) "Licensed" or "licensure" means licensure by the department pursuant to section 17a-227;

[(k)**]** (11) "Organization" means a private nonprofit corporation which is (A) tax-exempt under Section 501(c)(3) of the Internal Revenue Code **[**, is**]** of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, (B) qualified to do business in this state, and **[**is**]** (C) applying for a loan under the community residential facility revolving loan program;

[(l)**]** (12) "Rehabilitate" or "rehabilitation" means rehabilitation of a previously existing and operating community residential facility to meet physical plant requirements for licensure, certification or Fire Safety Code compliance or to make energy conservation improvements;

[(m)**]** (13) "Renovate" or "renovation" means renovation of a newly acquired residential facility to meet physical plant requirements for licensure, certification or Fire Safety Code compliance or to make energy conservation improvements;

[(n)**]** (14) "Total property development cost" means the cost of property acquisition, construction, renovation or rehabilitation and related development costs which may be capitalized under generally accepted accounting principles, including furnishings and equipment, provided in no case may the total property development cost of a residential facility financed pursuant to this section and sections 17a-221 to 17a-225, inclusive, exceed the total residential development amount approved by the Department of Social Services in accordance with sections 17a-228 and 17b-244, and the regulations adopted thereunder; and

[(o)**]** (15) "Capital repairs and improvements" means major repairs and improvements to an existing community residential facility to maintain the physical plant and property of such facility, which repairs and improvements are reimbursable under the room and board rates established by the Department of Social Services in accordance with section 17b-244 and may be capitalized in accordance with generally accepted accounting principles.

Sec. 129. Section 17a-231 of the general statutes is repealed and the following is substituted in lieu thereof:

[The following words and phrases, as**]** As used in this section and sections 17a-232 to 17a-237, inclusive, **[**shall have the following meanings,**]** unless the context otherwise requires:

[(a)] (1) "Residential facility for mentally retarded persons" means a residential facility for [the mentally retarded] persons with mental retardation that is licensed, or required to be licensed, pursuant to section 17a-227;

[(b)] (2) "Emergency" means a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of [such] a residential facility for mentally retarded persons;

[(c)] (3) "Transfer trauma" means the medical and psychological reactions to physical transfer that increase the risk of death, or grave illness, or both, in [mentally retarded] persons with mental retardation;

[(d)] (4) "Substantial violation" means a violation of regulations [established] adopted pursuant to section 17a-227 which presents a reasonable likelihood of serious physical or mental harm to residents of [such] a residential facility for mentally retarded persons; and

[(e)] (5) "Habitual violation" means a violation of regulations [established] adopted pursuant to section 17a-227 which, due to its repetition, presents a reasonable likelihood of serious physical or mental harm to residents of [such] a residential facility for mentally retarded persons.

Sec. 130. Section 17a-238 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) No person placed or treated under the direction of the Commissioner of Mental Retardation in any public or private facility shall be deprived of any personal, property or civil rights, except in accordance with due process of law.

(b) Each person placed or treated under the direction of the Commissioner of Mental Retardation in any public or private facility shall be protected from harm and receive humane and dignified treatment which is adequate for [his] such person's needs and for [his]

the development [to his] of such person's full potential at all times, with full respect for [his] such person's personal dignity and right to privacy consistent with [his] such person's treatment plan as determined by the commissioner. No treatment plan or course of treatment for any person placed or treated under the direction of the commissioner shall include the use of an aversive device which has not been tested for safety and efficacy and approved by the federal Food and Drug Administration except for any treatment plan or course of treatment including the use of such devices which was initiated prior to October 1, 1993. No treatment plan or course of treatment prescribed for any person placed or treated under the direction of the commissioner shall include the use of aversive procedures except in accordance with procedures established by the Commissioner of Mental Retardation. For purposes of this subsection, "aversive procedure" means the contingent use of an event which may be unpleasant, noxious or otherwise cause discomfort to alter the occurrence of a specific behavior or to protect an individual from injuring himself or herself or others and may include the use of physical isolation and mechanical and physical restraint. Nothing in this subsection shall prohibit persons who are not placed or treated under the direction of the Commissioner of Mental Retardation from independently pursuing and obtaining any treatment plan or course of treatment as may otherwise be authorized by law. The commissioner shall adopt regulations, in accordance with chapter 54, to carry out the provisions of this subsection.

(c) The Commissioner of Mental Retardation shall adopt regulations, in accordance with the provisions of [sections 4-166 to 4-176, inclusive] chapter 54, with respect to each facility or institution under [his] the jurisdiction of the commissioner, with regard to the following: (1) Prohibiting the use of corporal punishment; (2) when and by whom therapies may be used; (3) which therapies may be used; and (4) when a person may be placed in restraint or seclusion or when force may be used upon a person.

(d) A copy of any order prescribing the use of therapy, restraint or

seclusion in accordance with the regulations adopted **[**in**]** under subsection (c) of this section shall be made a part of the person's permanent clinical record together with the reasons for each such order and made available in compliance with existing statutes relating to the right to know.

(e) The Commissioner of Mental Retardation shall ensure that each person placed or treated under **[**his**]** the commissioner's direction in any public or private facility is afforded the following rights and privileges: (1) The right to prompt, sufficient and appropriate medical and dental treatment; (2) the right to communicate freely and privately with any person, including, but not limited to, an attorney or other legal representative of **[**his**]** the person's choosing; (3) the right to reasonable access to a telephone, both to make and receive calls in private, unless such access is used in violation of any federal or state statute; (4) the right to send and receive unopened mail and to make reasonable requests for assistance in the preparation of correspondence; (5) the safety of each person's personal effects shall be assured including the provision of reasonably accessible individual storage space; (6) the right to be free from unnecessary or excessive physical restraint; (7) the right to voice grievances without interference; (8) the right to a nourishing and well-balanced diet; (9) the right to be employed outside a facility and to receive assistance in his or her efforts to secure suitable employment. The department shall encourage the employment of such persons and shall promote the training of such persons for gainful employment, and all benefits of such employment shall accrue solely to the person employed; (10) the right to have the complete record maintained by the Department of Mental Retardation concerning such person released for review, inspection and copying to such person's attorney or other legal representative notwithstanding any provisions of subsection (g) of section 4-193 or section 4-194; and (11) the right to receive or purchase his or her own clothing and personal effects, including toilet articles, and the right to wear such clothing and use such personal effects except where determined to be dangerous to the health or safety of the

individual or others.

(f) The Commissioner of Mental Retardation shall require the attending physician of any person placed or treated under **[**his**]** the direction of the commissioner to obtain informed written consent from the following persons prior to authorizing any surgical procedure or any medical treatment, excluding routine medical treatment which is necessary to maintain the general health of a resident or to prevent the spread of any communicable disease: (1) The resident if **[**he**]** such resident is eighteen years of age or over or is legally emancipated and competent to give such consent; (2) the parent of a resident under eighteen years of age who is not legally emancipated; or (3) the legal guardian or conservator of a resident of any age who is adjudicated unable to make informed decisions about matters relating to **[**his**]** such resident's medical care. The person whose consent is required shall be informed of the nature and consequences of the particular treatment or surgical procedure, the reasonable risks, benefits and purpose of such treatment or surgical procedure and any alternative treatment or surgical procedures which are available. The consent of any resident or of any parent, guardian or conservator of any resident may be withdrawn at any time prior to the commencement of the treatment or surgical procedure. The director of any facility may authorize necessary surgery for any resident where, in the opinion of the resident's attending physician, the surgery is of an emergency nature and there is insufficient time to obtain the required written consent provided for in this section. The attending physician shall prepare a report describing the nature of the emergency which necessitated such surgery and shall file a copy of such report in the patient's record.

(g) The commissioner's oversight and monitoring of the medical care of persons placed or treated under the direction of the commissioner does not include the authority to make treatment decisions, except in limited circumstances in accordance with statutory procedures. In the exercise of such oversight and monitoring responsibilities, the commissioner shall not impede or seek to impede a properly executed medical order to withhold cardiopulmonary

resuscitation. For purposes of this subsection, **[**a**]** "properly executed medical order to withhold cardiopulmonary resuscitation" means (1) a written order by the attending physician; (2) in consultation and with the consent of the patient or a person authorized by law; (3) when the attending physician is of the opinion that the patient is in a terminal condition, as defined in **[**subsection**]** subdivision (3) of section 19a-570, which condition will result in death within days or weeks; and (4) when such physician has requested and obtained a second opinion from a Connecticut licensed physician in the appropriate specialty that confirms the patient's terminal condition; **[**. A "properly executed medical order to withhold cardiopulmonary resuscitation" also**]** and includes the entry of such an order when the attending physician is of the opinion that the patient is in the final stage of a terminal condition but cannot state that the patient may be expected to expire during the next several days or weeks, or, in consultation with a physician qualified to make a neurological diagnosis, deems the patient to be permanently unconscious, provided the commissioner has reviewed the decision with the department's director of community medical services, the family and guardian of the patient and others who the commissioner deems appropriate, and determines that the order is a medically acceptable decision.

(h) Any person applying for services from the Commissioner of Mental Retardation or any person placed by a probate court under the direction of the Commissioner of Mental Retardation, and such person's parents or guardian, shall be informed orally and in writing at the time of application or placement of the rights guaranteed by this section and the provisions of subdivision (5) of section 46a-11. A summary of **[**these**]** such rights shall be posted conspicuously in the public areas of every public or private facility providing services to persons under the care of the Commissioner of Mental Retardation.

Sec. 131. Section 17a-240 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The Commissioner of Mental Retardation shall, within available

appropriations, operate a school district within the Department of Mental Retardation, to [provide educational services to those persons eligible to receive services as defined in section 17a-239. The school district shall] be known as State of Connecticut-Unified School District #3. The school district shall provide educational services to persons eligible to receive services from State of Connecticut-Unified School District #3. The school district shall operate on a twelve-month calendar to provide uninterrupted educational programming. There shall be an education council for [said] the school district within the Department of Mental Retardation which shall be composed of seven members to be appointed by the Commissioner of Mental Retardation as follows: One member from each of the six regions within the Department of Mental Retardation and one member from the Council on Mental Retardation. The term of each member shall be coterminous with the term of the Governor. The members of [said] the education council shall be persons with a demonstrated interest in and concern for infants and toddlers with developmental delays, and shall not be employees of the Department of Mental Retardation or the [state] Department of Education. The education council shall annually elect a [chairman] chairperson and a secretary from its membership. [Said] The education council shall meet at least four times a year or at such other times as the [chairman] chairperson deems necessary.

(b) The education council for the school district within the Department of Mental Retardation shall (1) be responsible for planning and maintaining such appropriate educational programs as [it] the education council deems necessary or advisable in the interests of the persons benefiting [therefrom, shall] from such programs, (2) make a continuing study of the educational needs of seriously retarded persons in the state and [will do] conduct such planning as is necessary to meet their needs, and [will] (3) report annually to the Commissioner of Mental Retardation regarding the progress and accomplishments of the school district.

Sec. 132. Section 17a-242 of the general statutes is repealed and the following is substituted in lieu thereof:

The Commissioner of Mental Retardation, together with the superintendent and education council of the school district, shall annually evaluate the progress and accomplishments of [said] the school district. [Said commissioner] The Commissioner of Mental Retardation shall (1) submit annual evaluation reports to the Commissioner of Education in order to apprise the State Board of Education of the condition, progress and needs of [said] the school district, [. Said commissioner shall] and (2) follow procedures adopted by the Commissioner of Education in preparation of such annual evaluation reports.

Sec. 133. Section 17a-247 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Any employee of the Department of Mental Retardation appointed as a guardian or limited guardian pursuant to subsection [(e)] (f) of section 45a-676 shall exercise judgment, independent of the department, for the benefit and best interests of [his] the ward.

(b) The Department of Mental Retardation shall not take or threaten to take any action against any [such] employee of the department in retaliation for such employee's conduct as a guardian or limited guardian of a mentally retarded person.

Sec. 134. Section 17a-277 of the general statutes is repealed and the following is substituted in lieu thereof:

The director of any state training school, regional facility or other facility for the care and training of [the mentally retarded] persons with mental retardation may place any [mentally retarded] resident with mental retardation committed or admitted to such training school, regional facility or other facility provided for the care and training of [the mentally retarded] persons with mental retardation, under the provisions of sections 17a-210 to 17a-247, inclusive, as amended by this act, and 17a-273, in a private boarding home, group home or other residential facility to be cared for in accordance with the following conditions:

(1) Such [person] resident shall, despite such transfer, remain subject to the control of the director of such training school, regional facility or other facility provided for the care and training of [the mentally retarded, and such] persons with mental retardation and the director may, at any time, order and provide for the return of any such resident to such training school, regional facility or other facility provided for the care and training of [the mentally retarded] persons with mental retardation, subject to any limitations of the term of commitment contained in the order of commitment under which such resident was committed;

(2) When the transfer of any such [person] resident has been authorized or when, having been transferred to a private boarding home, group home or other residential facility for [mentally retarded] persons with mental retardation, such [person] resident has been returned to the training school, regional facility or other facility, the director of such training school, regional facility or other facility shall forthwith so notify the Commissioner of Mental Retardation;

(3) Such private boarding home, group home or other residential facility shall be licensed by the [state] Department of Mental Retardation, the Department of Children and Families or the Department of Public Health under such regulations as [said departments adopt; and] the departments adopt, in accordance with chapter 54; and

(4) The Commissioner of Mental Retardation shall, upon request, be given access to the complete record of any [person] resident placed in a private boarding home, group home or other residential facility pursuant to this section.

Sec. 135. Section 17a-453 of the general statutes is repealed and the following is substituted in lieu thereof:

The [state] Department of Mental Health and Addiction Services is designated as the state agency to administer the Mental Health Act as authorized under Public Law 487 of the 79th Congress, as from time to

time amended, and shall receive and distribute federal and state funds which become available for mental health services under said act.

Sec. 136. Section 17a-457 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The Board of Mental Health and Addiction Services shall meet monthly with the Commissioner of Mental Health and Addiction Services to review with **[**him**]** the commissioner and advise **[**him**]** the commissioner on programs, policies and plans of the Department of Mental Health and Addiction Services.

(b) The board shall advise the Governor concerning candidates for the position of Commissioner of Mental Health and Addiction Services.

(c) The board may issue periodic reports to the Governor and the Commissioner of Mental Health and Addiction Services.

(d) The board shall select a **[**chairman**]** chairperson and other officers from its membership and may establish rules governing its internal procedures.

(e) Members of the board may examine the files and records of the central office of the Department of Mental Health and Addiction Services at any time and, upon reasonable notice, of state-operated facilities for the treatment of persons with psychiatric disabilities or substance abuse disabilities.

(f) The board shall advise and assist the Commissioner of Mental Health and Addiction Services on program development and community mental health or substance abuse center construction planning.

(g) The board is designated and shall serve as the state advisory council to consult with the **[**state**]** Department of Mental Health and Addiction Services in administering the state's mental health and substance abuse programs.

(h) The board may, from time to time, appoint nonmembers to serve on such ad hoc advisory committees as it deems necessary to assist with its functions.

Sec. 137. Subsection (a) of section 19a-7b of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There is established a Health Care Access Commission, within the legislative department, which shall be comprised of: **[**The Commissioners of Public Health and Social Services, the Insurance Commissioner, the chairman of the Office of Health Care Access,**]** (1) The Commissioner of Public Health; (2) the Commissioner of Social Services; (3) the Insurance Commissioner; (4) the Commissioner of Health Care Access; (5) three members appointed by the president pro tempore of the Senate, one of whom shall be a member of the joint standing committee of the General Assembly having cognizance of matters relating to public health, one of whom shall represent community health centers and one of whom shall represent mental health services; (6) two members appointed by the majority leader of the Senate, one of whom shall represent commercial insurance companies and one of whom shall represent the disabled; (7) three members appointed by the minority leader of the Senate, one of whom shall be a member of the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, one of whom shall represent Blue Cross and Blue Shield of Connecticut, Inc. **[**,**]** and one of whom shall represent small business; (8) three members appointed by the speaker of the House of Representatives, one of whom shall be a member of the joint standing committee of the General Assembly having cognizance of matters relating to human services, one of whom shall represent consumers and one of whom shall represent labor; (9) two members appointed by the majority leader of the House of Representatives, one of whom shall represent large business and one of whom shall represent children; and (10) three members appointed by the minority leader of the House of Representatives, one of whom shall be a member of the joint standing committee of the General Assembly

having cognizance of matters relating to insurance, one of whom shall represent hospitals and one of whom shall be a pediatric primary care physician. All members of the commission may be represented by designees.

Sec. 138. Section 19a-73 of the general statutes is repealed and the following is substituted in lieu thereof:

The medical records of each hospital, as defined in **[**subsection (b) of**]** section 19a-490, for each patient who has been newly diagnosed as having contracted cancer shall include a complete occupational history of such patient. **[**Not later than October 1, 1980, the**]** The Commissioner of Public Health shall adopt regulations, **[**defining occupational history**]** in accordance with the provisions of chapter 54, to define occupational history.

Sec. 139. Section 19a-176 of the general statutes is repealed and the following is substituted in lieu thereof:

The Department of Public Health shall be the lead agency for the state's emergency medical services program and shall be responsible for the planning, coordination and administration of a state-wide emergency medical care service system. The **[**Commissioner of Public Health**]** commissioner shall set policy and establish state-wide priorities for emergency medical services utilizing the services of the **[**state**]** Department of Public Health and the emergency medical services councils, as established by section 19a-183.

Sec. 140. Section 19a-314a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) As used in this section, **[**: "Cemetery"**]** "cemetery" means any place performing interments on or after October 1, 1995.

(b) Each town, ecclesiastical society or cemetery association which owns, manages or controls a cemetery shall disclose to each consumer, in writing at the time of the sale of any item or service, any dispute

resolution procedure of such town, ecclesiastical society or cemetery association. The written disclosure shall also indicate that the consumer may contact the **[**state**]** Department of Public Health or local public health director if **[**he**]** the consumer has any complaints which concern violations of sections 7-64 to 7-72, inclusive, 19a-310 and 19a-311.

Sec. 141. Section 19a-355 of the general statutes is repealed and the following is substituted in lieu thereof:

[Certain terms, when used in this chapter, are defined as follows**]** (a) As used in this chapter, unless the context otherwise requires:

(1) **[**A "tenement house"**]** "Tenement house" means any house or building, or portion thereof, which is rented, leased, let or hired out to be occupied, or is arranged or designed to be occupied, or is occupied, as the home or residence of three or more families, living independently of each other, and doing their cooking upon the premises, and having a common right in the halls, stairways or yards;

(2) **[**A "lodging house"**]** "Lodging house" or "boarding house" means any house or building or portion thereof, in which six or more persons are harbored, received or lodged for hire, or any building or part thereof, which is used as a sleeping place or lodging for six or more persons not members of the family residing therein;

(3) **[**An "apartment"**]** "Apartment" means a room or suite of rooms occupied or designed to be occupied as a family domicile;

(4) **[**A "yard"**]** "Yard" means an open, unoccupied space, on the same lot with a tenement, lodging or boarding house, between the rear line of such house and the rear line of the lot;

(5) **[**A "court"**]** "Court" means an open, unoccupied space, other than a yard, on the same lot with a tenement house; **[**a court not extending to the street or yard means an inner court; a court extending to the street or yard means an outer court; if it extends to the street, it means

a street court; if it extends to the yard, it means a yard court;**]**

[(6) A "public hall" means a hall, corridor or passageway not within an apartment;**]**

[(7) A "basement"**]** (6) "Basement" means a story partly, but not more than one-half, below the level of the grade; and

[(8) A "cellar"**]** (7) "Cellar" means a story more than one-half below the level of the grade. **[**;**]**

[(9) The**]** (b) For purposes of this chapter, the word "shall" is mandatory and not directory, and denotes that the house shall be maintained in all respects according to the mandate, as long as it continues to be a tenement house. **[**;**]**

[(10)**]** (c) In determining the number of stories in a tenement house, a basement or an attic shall be counted as a story if it is occupied or designed to be occupied for living purposes. **[**;**]**

[(11) "Enforcing agency" means the board of health or other authority designated to enforce this chapter or a local housing code.**]**

Sec. 142. Section 19a-359 of the general statutes is repealed and the following is substituted in lieu thereof:

In each tenement house erected or subdivided after June 30, 1941, there shall be a water closet in each apartment of two or more rooms. In each tenement house erected after August 31, 1930, and prior to July 1, 1941, there shall be a water closet in each apartment of three or more rooms and at least one water closet for each two apartments of less than three rooms each. Each water closet shall be in a separate compartment or bathroom, upon the same floor with the apartment which it accommodates. Each bathroom, toilet room or other room containing one or more water closets or urinals, which is placed in any building, shall be at all times provided with adequate lighting and shall be ventilated in at least one of the following ways: **[**(a)**]** (1) By a window opening directly upon a street or other open public space or

upon a court located on the same lot as the building, and having, between stop beads, an area not less than ten per cent of the floor area nor less than three square feet in any case and a width of not less than one foot; **[**(b)**]** (2) by a window of the size specified in **[**subsection (a)**]** subdivision (1) of this section, or a register, opening on a vent shaft which extends to and through the roof or into a court conforming to the requirements of this section for courts and which has a cross-sectional area of not less than one-fifth of a square foot for each foot of height but not less than nine square feet and a width of not less than sixteen inches in any case, and, unless open to the outer air at the top, a net area of louvre openings in the skylight equal to the maximum required shaft area; **[**(c)**]** (3) by an individual vent flue or duct extending independently of any other flue or duct to and above the roof and having a cross-sectional area of not less than one square foot for two or fewer water closets or urinal fixtures and one-third of a square foot additional for each additional water closet or urinal fixture; **[**(d)**]** (4) by a skylight in the ceiling, having a glazed surface of not less than three square feet and arranged so as to provide ventilating openings of not less than three square feet to the outer air above the roof of the building or into a court conforming to the requirements of this section for courts, for two or fewer water closets or urinal fixtures and two square feet additional for each additional water closet or urinal fixture; or **[**(e)**]** (5) by some approved system of mechanical exhaust ventilation of sufficient capacity to provide not less than four changes of air per hour. Each vent shaft in a tenement house erected after August 31, 1930, shall be constructed of fire-proof material. Not more than two water closets or bathrooms shall open upon such a shaft on one floor of a tenement house, and no two water closet or bathroom windows opening upon such shaft on the same floor shall be opposite each other.

Sec. 143. Subsection (b) of section 19a-401 of the general statutes is repealed and the following is substituted in lieu thereof:

(b) The commission shall adopt regulations, in accordance with chapter 54, as necessary or appropriate to carry out effectively the

administrative provisions of this chapter.

Sec. 144. Section 19a-420 of the general statutes is repealed and the following is substituted in lieu thereof:

As used in this chapter:

[(a)**]** (1) "Youth camp" means any regularly scheduled program or organized group activity advertised as a camp or operated by a person, partnership, corporation, association, the state or a municipal agency for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children, under eighteen years of age, who are **[**(1)**]** (A) not bona fide personal guests in the private home of an individual, and **[**(2)**]** (B) living apart from their relatives, parents or legal guardian, for a period of three days or more per week or portions of three or more days per week, provided any such relative, parent or guardian who is an employee of such camp shall not be considered to be in the position of loco parentis to **[**his**]** such employee's child for the purposes of this chapter, but does not include schools which operate a summer educational program or licensed day care centers;

[(b)**]** (2) "Resident camp" means any youth camp which is established, conducted or maintained on any parcel or parcels of land on which there are located dwelling units or buildings intended to accommodate five or more children for at least seventy-two consecutive hours and in which the campers attending such camps eat and sleep;

[(c)**]** (3) "Day camp" means any youth camp which is established, conducted or maintained on any parcel or parcels of land on which there are located dwelling units or buildings intended to accommodate five or more children during daylight hours for at least three days a week with the campers eating and sleeping at home, except for one meal per day, but does not include programs operated by a municipal agency;

[(d)**]** (4) "Person" means any individual, partnership, association, organization, limited liability company or corporation;

[(e)**]** (5) "Commissioner" means the Commissioner of Public Health; and

[(f)**]** (6) "Department" means the Department of Public Health.

Sec. 145. Section 19a-421 of the general statutes is repealed and the following is substituted in lieu thereof:

No person shall establish, conduct or maintain a youth camp without a license issued by the **[**Department of Public Health**]** department. Applications for such license shall be made in writing at least thirty days prior to the opening of the youth camp on forms provided and in accordance with procedures established by the **[**Commissioner of Public Health**]** commissioner and shall be accompanied by a fee of six hundred fifty dollars or, if the applicant is a nonprofit, nonstock corporation or association, a fee of two hundred fifty dollars or, if the applicant is a day camp affiliated with a nonprofit organization, for no more than five days duration and for which labor and materials are donated, no fee. All such licenses shall be valid for a period of one year from the date of issuance unless surrendered for cancellation or suspended or revoked by the commissioner for violation of this chapter or any regulations **[**promulgated hereunder**]** adopted under section 19a-428 and shall be renewable upon payment of a six-hundred-fifty-dollar license fee or, if the licensee is a nonprofit, nonstock corporation or association, a two-hundred-fifty-dollar license fee or, if the applicant is a day camp affiliated with a nonprofit organization, for no more than five days duration and for which labor and materials are donated, no fee.

Sec. 146. Section 19a-422 of the general statutes is repealed and the following is substituted in lieu thereof:

To be eligible for the issuance or renewal of a youth camp license pursuant to this chapter, the camp shall satisfy the following

requirements: **[**(a)**]** (1) The location of the camp shall be such as to provide adequate surface drainage and afford facilities for obtaining a good water supply; **[**(b)**]** (2) each dwelling unit, building and structure shall be maintained in good condition, suitable for the use to which it is put, and shall present no health or fire hazard as so certified, within ninety days of such application, by the **[**Department of Public Health**]** department or State Fire Marshal, as the case may be; **[**(c)**]** (3) there shall be an adequate and competent staff, which includes the camp director, activities specialists, counselors and maintenance personnel, of good character and reputation; **[**(d)**]** (4) all hazardous activities, including, but not limited to, archery, aquatics, horseback riding and firearms instruction, shall be supervised by a qualified activities specialist who has adequate experience and training in **[**his**]** such specialist's area of specialty; **[**(e)**]** (5) the staff of a resident and nonresident camp shall at all times include an adult trained in the administration of first aid as required by the commissioner; **[**(f)**]** (6) records of personal data for each camper shall be kept in any reasonable form the camp director may choose, **[**including therein**]** and shall include (A) the camper's name, age and address, **[**;**]** (B) the name, address and telephone number of the parents or guardian, **[**;**]** (C) the dates of admission and discharge, **[**;**]** and **[**other such**]** (D) such other information as the commissioner shall require. Any youth camp licensed under this chapter shall operate only as the type of camp authorized by such license. Such camps shall not advertise any service they are not equipped or licensed to offer. The license shall be posted in a conspicuous place at camp headquarters and failure to so post the license shall result in the presumption that the camp is being operated in violation of this chapter.

Sec. 147. Subsection (a) of section 19a-438 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Application for a license to hold an actual or anticipated assembly of three thousand or more persons shall be made in writing to the governing body of the municipality at least thirty days in advance of such assembly and shall be accompanied by the bond

required by [subdivision (2) (L)] subparagraph (L) of subdivision (2) of section 19a-437 and the license fee required by subsection (b) of section 19a-436.

Sec. 148. Section 19a-491a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) A person seeking a license to establish, conduct, operate or maintain a nursing home [, as defined in subsection (c) of section 19a-490,] shall provide the Department of Public Health with the following information:

(1) (A) The name and business address of the owner and a statement of whether the owner is an individual, partnership, corporation or other legal entity; (B) the names of the officers, directors, trustees, or managing and general partners of the owner, the names of persons having a ten per cent or greater ownership interest in the owner, and a description of each such person's occupation with the owner; and (C) if the owner is a corporation which is incorporated in another state, a certificate of good standing from the secretary of state of the state of incorporation;

(2) A description of the relevant business experience of the owner and of the administrator of the nursing home and evidence that the administrator has a license issued pursuant to section 19a-514;

(3) Affidavits signed by the owner, any of the persons described in subdivision (1) of this subsection, the administrator, assistant administrator, the medical director, the director of nursing and assistant director of nursing disclosing any matter in which such person has been convicted of a felony, as defined in section 53a-25, or has pleaded nolo contendere to a felony charge, or has been held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion or misappropriation of property; or is subject to an injunction or restrictive or remedial order of a court of record at the time of application, within the past five years has had any state or federal

license or permit suspended or revoked as a result of an action brought by a governmental agency or department, [rising] arising out of or relating to health care business activity, including, but not limited to, actions affecting the operation of a nursing home, retirement home, residential care home or any facility subject to sections 17b-520 to 17b-535, inclusive, or a similar statute in another state or country;

(4) (A) A statement as to whether or not the owner is, or is affiliated with, a religious, charitable or other nonprofit organization; (B) the extent of the affiliation, if any; (C) the extent to which the affiliate organization will be responsible for the financial obligations of the owner; [,] and (D) the provision of the [federal] Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, if any, under which the owner or affiliate is exempt from the payment of income tax;

(5) The location and a description of other health care facilities of the owner, existing or proposed, and, if proposed, the estimated completion date or dates and whether or not construction has begun; and

(6) If the operation of the nursing home has not yet commenced, a statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the home, including:

(A) An estimate of such costs as financing expense, legal expense, land costs, marketing costs and other similar costs which the owner expects to incur or become obligated for prior to the commencement of operations; and

(B) A description of any mortgage loan or any other financing intended to be used for the financing of the nursing home, including the anticipated terms and costs of such financing.

(b) In addition to the information provided pursuant to subsection (a) of this section, the commissioner may reasonably require an applicant for a nursing home license or renewal of a nursing home

license to submit additional information. Such information may include audited and certified financial statements of the owner, including, (1) a balance sheet as of the end of the most recent fiscal year, and (2) income statements for the most recent fiscal year of the owner or such shorter period of time as the owner shall have been in existence.

(c) A person seeking to renew a nursing home license shall furnish the department with any information required under subsection (a) of this section that was not previously submitted and with satisfactory written proof that the owner of the [facility] nursing home consents to such renewal, if the owner is different than the person seeking renewal, and shall provide data on any change in the information submitted. The commissioner may refuse to issue or renew a nursing home license if the person seeking renewal fails to provide the information required under this section.

Sec. 149. Section 19a-492 of the general statutes is repealed and the following is substituted in lieu thereof:

The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to provide that any person employed on January 1, 1981, as the administrator of a home health care agency in this state, [as defined in section 19a-490,] who has been so employed for a period of at least five years, shall be deemed to be qualified as an administrator by the [Commissioner of Public Health] commissioner.

Sec. 150. Section 19a-492b of the general statutes is repealed and the following is substituted in lieu thereof:

(a) A home health care agency [, as defined in section 19a-490, which] that receives payment for rendering care to persons receiving medical assistance from the state, general assistance medical benefits from a town, assistance from the Connecticut [home care] home-care program for the elderly [,] pursuant to section 17b-342, or funds obtained through Title XVIII of the Social Security Amendments of 1965 shall be prohibited from discriminating against such persons who

apply for enrollment to such home health care agency on the basis of source of payment.

(b) Any home health care agency which violates the provisions of this section shall be subject to suspension or revocation of license.

Sec. 151. Section 19a-495 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The Department of Public Health shall, after consultation with the appropriate public and voluntary hospital planning agencies, establish classifications of institutions. **[**It**]** The department shall, in **[**its**]** the Public Health Code, adopt, amend, promulgate and enforce such regulations based upon reasonable standards of health, safety and comfort of patients and demonstrable need for such institutions, with respect to each classification of institutions to be licensed under sections 19a-490 to 19a-503, inclusive, as amended by this act, including their special facilities, as will further the accomplishment of the purposes of said sections in promoting safe, humane and adequate care and treatment of individuals in institutions. **[**Said**]** The department shall adopt such regulations, in accordance with chapter 54, concerning home health care agencies and homemaker-home health aide agencies. **[**, as defined in section 19a-490.**]**

(b) The Department of Public Health, with the advice of the Department of Mental Health and Addiction Services, shall include in the regulations adopted pursuant to subsection (a) of this section, additional standards for community residences, as defined in section 19a-507a, which shall include, but not be limited to, standards for: (1) Safety, maintenance and administration; (2) protection of human rights; (3) staffing requirements; (4) administration of medication; (5) program goals and objectives; (6) services to be offered; and (7) population to be served.

(c) The **[**Commissioner of Public Health**]** commissioner may waive any provisions of the regulations affecting the physical plant requirements of residential care homes **[**, as defined in section 19a-490,**]**

if the commissioner determines that such waiver would not endanger the health, safety or welfare of any resident. The commissioner may impose conditions, upon granting the waiver, that assure the health, safety and welfare of residents, and may revoke the waiver upon a finding that the health, safety or welfare of any resident has been jeopardized. The commissioner shall not grant a waiver that would result in a violation of the State Fire Safety Code or State Building Code. The commissioner may adopt regulations, in accordance with chapter 54, establishing procedures for an application for a waiver pursuant to this subsection.

Sec. 152. Section 19a-496 of the general statutes is repealed and the following is substituted in lieu thereof:

An institution which is in operation at the time of **[**promulgation**]** the adoption of any regulations under section 19a-495, as amended by this act, shall be given a reasonable time, not to exceed one year from the date of such **[**promulgation**]** adoption, within which to comply with such regulations. The **[**foregoing**]** provisions of this section shall not be construed to require the issuance of a license, or to prevent the suspension or revocation thereof, to an institution which does not comply with minimum requirements of health, safety and comfort designated by the Department of Public Health through regulation adopted under the provisions of section 19a-495, as amended by this act.

Sec. 153. Section 19a-497 of the general statutes is repealed and the following is substituted in lieu thereof:

Any institution **[**, as defined in section 19a-490,**]** shall, upon receipt of a notice of intention to strike by a labor organization representing the employees of such **[**facility**]** institution, in accordance with the provisions of the National Labor Relations Act, 29 USC 158, immediately file a strike contingency plan with the **[**Commissioner of Public Health**]** commissioner. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to

establish requirements for such plan. Such plan shall be deemed a statement of strategy or negotiation with respect to collective bargaining for the purpose of subdivision (9) of subsection (b) of section 1-210.

Sec. 154. Section 19a-498 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Subject to the provisions of section 19a-493, the Department of Public Health shall make or cause to be made a biennial licensure inspection of all institutions and such other inspections and investigations of institutions and examination of their records as **[**it**]** the department deems necessary.

(b) The **[**Commissioner of Public Health**]** commissioner, or an agent authorized by **[**him**]** the commissioner to conduct any inquiry, investigation or hearing under the provisions of this chapter, shall have power to inspect the premises of an institution, administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the department, the commissioner or **[**his**]** such agent may subpoena witnesses and require the production of records, papers and documents pertinent to such inquiry. If any person disobeys such subpoena or, having appeared in obedience thereto, refuses to answer any pertinent question put to **[**him**]** such person by the commissioner or **[**his**]** such agent or to produce any records and papers pursuant to the subpoena, the commissioner or **[**his**]** such agent may apply to the superior court for the judicial district of Hartford or for the judicial district wherein the person resides or wherein the business has been conducted, **[**or to any judge of said court if the same is not in session,**]** setting forth such disobedience or refusal, and said court **[**or such judge**]** shall cite such person to appear before said court **[**or such judge**]** to answer such question or to produce such records and papers.

(c) The Department of Mental Health and Addiction Services, with respect to any mental health facility **[**, as defined in subsection (h) of

section 19a-490,**]** or alcohol or drug treatment facility, **[**as defined in subsection (i) of section 19a-490,**]** shall be authorized, either upon the request of the Commissioner of Public Health or at such other times as they deem necessary, to enter such facility for the purpose of inspecting programs conducted **[**therein**]** at such facility. A written report of the findings of any such inspection shall be forwarded to the Commissioner of Public Health and a copy shall be maintained in **[**the**]** such facility's licensure file.

(d) In addition, the Commissioner of Social Services, or **[**his**]** a designated representative of the Commissioner of Social Services, at the request of the Office of Health Care Access or when **[**said commissioner**]** the Commissioner of Social Services deems it necessary, may examine and audit the financial records of any nursing home facility, as defined in section 19a-521. Each such nursing home facility shall retain all financial information, data and records relating to the operation of the nursing home facility for a period of not less than ten years, and all financial information, data and records relating to any real estate transactions affecting such operation, for a period of not less than twenty-five years, which financial information, data and records shall be made available, upon request, to the Commissioner of Social Services or **[**his**]** such designated representative at all reasonable times.

Sec. 155. Section 19a-499 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Information received by the Department of Public Health through filed reports, inspection or as otherwise authorized under this chapter, shall not be disclosed publicly in such manner as to identify any patient of an institution, **[**as defined herein,**]** except in a proceeding involving the question of licensure or in any proceeding before the Office of Health Care Access involving such institution.

(b) Notwithstanding the provisions of subsection (a) of this section, all records obtained by the commissioner in connection with any **[**such**]** investigation under this chapter shall not be subject to the

provisions of section 1-210 for a period of six months from the date of the petition or other event initiating such investigation, or until such time as the investigation is terminated pursuant to a withdrawal or other informal disposition or until a hearing is convened pursuant to chapter 54, whichever is earlier. A complaint, as defined in subdivision (6) of section 19a-13, shall be subject to the provisions of section 1-210 from the time that it is served or mailed to the respondent. Records which are otherwise public records shall not be deemed confidential merely because they have been obtained in connection with an investigation under this chapter.

Sec. 156. Section 19a-502 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Any person establishing, conducting, managing or operating any institution without the license required under the provisions of sections 19a-490 to 19a-503, inclusive, as amended by this act, or owning real property or improvements upon or within which such an institution is established, conducted, managed or operated, without the certificate required under the provisions of section 19a-491, shall be fined not more than one hundred dollars for each offense, and each day of a continuing violation after conviction shall be considered a separate offense. The penalty provisions of this subsection shall not apply to any financial institution regulated by any state or federal agency or body, which financial institution has succeeded to the title of the premises by mortgage foreclosure and the operator, if any, continues to occupy such property.

(b) If any person conducting, managing or operating any nursing home facility, as defined in section 19a-521, fails to maintain or make available the financial information, data or records required under subsection (d) of section 19a-498, as amended by this act, such person's license as a nursing home administrator may be revoked or suspended in accordance with section 19a-517 or the license of such nursing home facility may be revoked or suspended in the manner provided in section 19a-494, or both.

Sec. 157. Section 19a-504 of the general statutes is repealed and the following is substituted in lieu thereof:

The Department of Public Health shall [make] adopt such regulations, in accordance with chapter 54, pertaining to the prompt removal of bodies of deceased persons from the presence of other patients in hospitals, residential care homes or rest homes [, as defined in section 19a-490,] as will minimize, as far as possible, disturbance of such other patients.

Sec. 158. Section 19a-528a of the general statutes is repealed and the following is substituted in lieu thereof:

Any nursing home licensee or owner who (1) has had four civil penalties imposed through final order of the commissioner in accordance with the provisions of sections 19a-524 to 19a-528, inclusive, during a two-year period, [or] (2) has had intermediate sanctions imposed through final adjudication under the Medicare or Medicaid program pursuant to Title XVIII or XIX of the federal Social Security Act, 42 USC 301, as from time to time amended, or (3) has had [his] such licensee's or owner's Medicare or Medicaid provider agreement terminated or not renewed, shall not acquire another nursing home [, as defined in subsection (c) of section 19a-490,] in this state for a period of five years from the date of final order on such civil penalties, final adjudication of such intermediate sanctions, or termination or nonrenewal.

Sec. 159. Section 19a-534a of the general statutes is repealed and the following is substituted in lieu thereof:

If the [Commissioner of Public Health] commissioner finds that the health, safety or welfare of any patient or patients in any nursing home facility imperatively requires emergency action and [he] incorporates a finding to that effect in [his] the order, [he] the commissioner may issue a summary order to the holder of a license issued pursuant to section 19a-493 pending completion of any proceedings conducted pursuant to section 19a-494. [These] Such proceedings shall be

promptly instituted and determined. The orders which the commissioner may issue shall include, but not be limited to: [(a)] (1) Revoking or suspending the license; [(b)] (2) prohibiting the nursing home facility from admitting new patients or discharging current patients; [and (c)] (3) limiting the license of a nursing home facility in any respect, including reducing the licensed patient capacity; and [(d)] (4) compelling compliance with the applicable statutes or regulations [of] administered or adopted by the department.

Sec. 160. Section 19a-541 of the general statutes is repealed and the following is substituted in lieu thereof:

[The following words and phrases, as] As used in this section and sections 19a-542 to 19a-549, inclusive, [shall have the following meanings,] unless the context otherwise requires:

[(a)] (1) "Nursing home facility" [means a facility as defined] shall have the same meaning as provided in section 19a-521;

[(b)] (2) "Emergency" means a situation, physical condition or one or more practices, methods or operations which presents imminent danger of death or serious physical or mental harm to residents of [such] a nursing home facility;

[(c)] (3) "Transfer trauma" means the medical and psychological reactions to physical transfer that increase the risk of death, or grave illness, or both, in elderly persons; and

[(d)] (4) "Substantial violation" means a violation of law which presents a reasonable likelihood of serious physical or mental harm to residents of [such] a nursing home facility.

Sec. 161. Section 19a-550 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) (1) As used in this section, [a] (A) "nursing home facility" [is as defined] shall have the same meaning as provided in section 19a-521, [; a] and (B) "chronic disease hospital" means a long-term hospital having

facilities, medical staff and all necessary personnel for the diagnosis, care and treatment of chronic diseases; and (2) for the purposes of subsections (c) and (d) of this section, and subsection (b) of section 19a-537, "medically contraindicated" means a comprehensive evaluation of the impact of a potential room transfer on the patient's physical, mental and psychosocial well-being, which determines that the transfer would cause new symptoms or exacerbate present symptoms beyond a reasonable adjustment period resulting in a prolonged or significant negative outcome that could not be ameliorated through care plan intervention, as documented by a physician in a patient's medical record.

(b) There is established a patients' bill of rights for any person admitted as a patient to any nursing home facility or chronic disease hospital. The patients' bill of rights shall be implemented in accordance with the provisions of Sections 1919(c)(2), 1919(c)(2)(D) and 1919(c)(2)(E) of the Social Security Act. [Said] The patients' bill of rights shall provide that each such patient: (1) Is fully informed, as evidenced by [his] the patient's written acknowledgment, prior to or at the time of admission and during [his] the patient's stay, of [these] the rights set forth in this section and of all rules and regulations governing patient conduct and responsibilities; (2) is fully informed, prior to or at the time of admission and during [his] the patient's stay, of services available in the facility, and of related charges including any charges for services not covered under Titles XVIII or XIX of the Social Security Act, or not covered by basic per diem rate; (3) is entitled to choose [his] the patient's own physician and is fully informed, by a physician, of [his] the patient's medical condition unless medically contraindicated, as documented by the physician in [his] the patient's medical record, and is afforded the opportunity to participate in the planning of [his] the patient's medical treatment and to refuse to participate in experimental research; (4) in a residential care home or a chronic disease hospital is transferred from one room to another within the facility only for medical reasons, or for [his] the patient's welfare or that of other patients, as documented in [his] the patient's medical

record and such record shall include documentation of action taken to minimize any disruptive effects of such transfer, except a patient who is a Medicaid recipient may be transferred from a private room to a nonprivate room, provided no patient may be involuntarily transferred from one room to another within the facility if (A) it is medically established that the move will subject the patient to a reasonable likelihood of serious physical injury or harm, or (B) the patient has a prior established medical history of psychiatric problems and there is psychiatric testimony that as a consequence of the proposed move there will be exacerbation of the psychiatric problem which would last over a significant period of time and require psychiatric intervention; and in the case of an involuntary transfer from one room to another within the facility, the patient and, if known, **[**his**]** the patient's legally liable relative, guardian or conservator, is given at least thirty days' and no more than sixty days' written notice to ensure orderly transfer from one room to another within the facility, except where the health, safety or welfare of other patients is endangered or where immediate transfer from one room to another within the facility is necessitated by urgent medical need of the patient or where a patient has resided in the facility for less than thirty days, in which case notice shall be given as many days before the transfer as practicable; (5) is encouraged and assisted, throughout **[**his**]** the patient's period of stay, to exercise **[**his**]** the patient's rights as a patient and as a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff or to outside representatives of **[**his**]** the patient's choice, free from restraint, interference, coercion, discrimination or reprisal; (6) shall have prompt efforts made by the facility to resolve grievances the patient may have, including those with respect to the behavior of other patients; (7) may manage **[**his**]** the patient's personal financial affairs, and is given a quarterly accounting of financial transactions made on **[**his**]** the patient's behalf; (8) is free from mental and physical abuse, corporal punishment, involuntary seclusion and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the patient's medical symptoms. Physical or chemical

restraints may be imposed only to ensure the physical safety of the patient or other patients and only upon the written order of a physician that specifies the type of restraint and the duration and circumstances under which the restraints are to be used, except in emergencies until a specific order can be obtained; (9) is assured confidential treatment of **[**his**]** the patient's personal and medical records, and may approve or refuse their release to any individual outside the facility, except in case of **[**his**]** the patient's transfer to another health care institution or as required by law or third-party payment contract; (10) receives services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual would be endangered, and is treated with consideration, respect, and full recognition of **[**his**]** the patient's dignity and individuality, including privacy in treatment and in care for **[**his**]** the patient's personal needs; (11) is not required to perform services for the facility that are not included for therapeutic purposes in **[**his**]** the patient's plan of care; (12) may associate and communicate privately with persons of **[**his**]** the patient's choice, including other patients, send and receive **[**his**]** the patient's personal mail unopened and make and receive telephone calls privately, unless medically contraindicated, as documented by **[**his**]** the patient's physician in **[**his**]** the patient's medical record, and receives adequate notice before **[**his**]** the patient's room or **[**his**]** roommate in the facility is changed; (13) is entitled to organize and participate in patient groups in the facility and to participate in social, religious and community activities that do not interfere with the rights of other patients, unless medically contraindicated, as documented by **[**his**]** the patient's physician in **[**his**]** the patient's medical records; (14) may retain and use **[**his**]** the patient's personal clothing and possessions unless to do so would infringe upon rights of other patients or unless medically contraindicated, as documented by **[**his**]** the patient's physician in **[**his**]** the patient's medical record; (15) if married, is assured privacy for visits by **[**his**]** the patient's spouse and if both are inpatients in the facility, they are permitted to share a room, unless medically contraindicated, as documented by the attending physician in the medical record; (16) is

fully informed of the availability of and may examine all current state, local and federal inspection reports and plans of correction; (17) may organize, maintain and participate in a patient-run resident council, as a means of fostering communication among residents and between residents and staff, encouraging resident independence and addressing the basic rights of nursing home and chronic disease hospital patients and residents, free from administrative interference or reprisal; (18) is entitled to the opinion of two physicians concerning the need for surgery, except in an emergency situation, prior to such surgery being performed; (19) is entitled to have the patient's family meet in the facility with the families of other patients in the facility to the extent the facility has existing meeting space available which meets applicable building and fire codes; (20) is entitled to file a complaint with the **[**state**]** Department of Social Services and the **[**state**]** Department of Public Health regarding patient abuse, neglect or misappropriation of patient property; (21) is entitled to have psychopharmacologic drugs administered only on orders of a physician and only as part of a written plan of care designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent external consultant reviews the appropriateness of the drug plan; (22) is entitled to be transferred or discharged from the facility only pursuant to section 19a-535 or section 19a-535b, as applicable; (23) is entitled to be treated equally with other patients with regard to transfer, discharge and the provision of all services regardless of the source of payment; (24) shall not be required to waive any rights to benefits under Medicare or Medicaid or to give oral or written assurance that **[**he**]** the patient is not eligible for, or will not apply for benefits under Medicare or Medicaid; (25) is entitled to be provided information by the facility as to how to apply for Medicare or Medicaid benefits and how to receive refunds for previous payments covered by such benefits; (26) on or after October 1, 1990, shall not be required to give a third party guarantee of payment to the facility as a condition of admission to, or continued stay in, the facility; (27) in the case of an individual who is entitled to medical assistance, is entitled to have the facility not charge,

solicit, accept or receive, in addition to any amount otherwise required to be paid under Medicaid, any gift, money, donation or other consideration as a precondition of admission or expediting the admission of the individual to the facility or as a requirement for the individual's continued stay in the facility; and (28) shall not be required to deposit **[**his**]** the patient's personal funds in the facility.

(c) The patients' bill of rights shall provide that a patient in a rest home with nursing supervision or a chronic and convalescent nursing home may be transferred from one room to another within a facility only for the purpose of promoting the patient's well-being, except as provided pursuant to subparagraph (C) or (D) of this subsection or subsection (d) of this section. Whenever a patient is to be transferred, the facility shall effect the transfer with the least disruption to the patient and shall assess, monitor and adjust care as needed subsequent to the transfer in accordance with subdivision (10) of subsection (b) of this section. When a transfer is initiated by the facility and the patient does not consent to the transfer, the facility shall establish a consultative process that includes the participation of the attending physician, a registered nurse with responsibility for the patient and other appropriate staff in disciplines as determined by the patient's needs, and the participation of the patient, **[**his**]** the patient's family or other representative. The consultative process shall determine: (1) What caused consideration of the transfer; (2) whether the cause can be removed; and (3) if not, whether the facility has attempted alternatives to transfer. The patient shall be informed of the risks and benefits of the transfer and of any alternatives. If subsequent to the completion of the consultative process a patient still does not wish to be transferred, the patient may be transferred without **[**his**]** the patient's consent, unless medically contraindicated, only (A) if necessary to accomplish physical plant repairs or renovations that otherwise could not be accomplished; provided, if practicable, the patient, if **[**he**]** the patient wishes, shall be returned to **[**his**]** the patient's room when the repairs or renovations are completed; (B) due to irreconcilable incompatibility between or among roommates, which is actually or potentially harmful

to the well-being of a patient; (C) if the facility has two vacancies available for patients of the same sex in different rooms, there is no applicant of that sex pending admission in accordance with the requirements of section 19a-533 and grouping of patients by the same sex in the same room would allow admission of patients of the opposite sex, which otherwise would not be possible; (D) if necessary to allow access to specialized medical equipment no longer needed by the patient and needed by another patient; or (E) if the patient no longer needs the specialized services or programming that is the focus of the area of the facility in which the patient is located. In the case of an involuntary transfer, the facility shall, subsequent to completion of the consultative process, provide the patient and **[**his**]** the patient's legally liable relative, guardian or conservator if any or other responsible party if known, with at least fifteen days' written notice of the transfer, which shall include the reason for the transfer, the location to which the patient is being transferred, and the name, address and telephone number of the regional long-term care ombudsman, except that in the case of a transfer pursuant to subparagraph (A) of this subsection at least thirty days' notice shall be provided. Notwithstanding the provisions of this subsection, a patient may be involuntarily transferred immediately from one room to another within a facility to protect **[**himself**]** the patient or others from physical harm, to control the spread of an infectious disease, to respond to a physical plant or environmental emergency that threatens the patient's health or safety or to respond to a situation that presents a patient with an immediate danger of death or serious physical harm. In such a case, disruption of patients shall be minimized; the required notice shall be provided within twenty-four hours after the transfer; if practicable, the patient, if **[**he**]** the patient wishes, shall be returned to **[**his**]** the patient's room when the threat to health or safety which prompted the transfer has been eliminated; and, in the case of a transfer effected to protect a patient or others from physical harm, the consultative process shall be established on the next business day.

(d) Notwithstanding the provisions of subsection (c) of this section,

unless medically contraindicated, a patient who is a Medicaid recipient may be transferred from a private to a nonprivate room. In the case of such a transfer, the facility shall (1) give at least thirty days' written notice to the patient and **[**his**]** the patient's legally liable relative, guardian or conservator, if any, or other responsible party, if known, which notice shall include the reason for the transfer, the location to which the patient is being transferred and the name, address and telephone number of the regional long-term care ombudsman; and (2) establish a consultative process to effect the transfer with the least disruption to the patient and assess, monitor and adjust care as needed subsequent to the transfer in accordance with subdivision (10) of subsection (b) of this section. The consultative process shall include the participation of the attending physician, a registered nurse with responsibility for the patient and other appropriate staff in disciplines as determined by the patient's needs, and the participation of the patient, **[**his**]** the patient's family or other representative.

(e) Any facility that negligently deprives a patient of any right or benefit created or established for the well-being of the patient by the provisions of this section shall be liable to such patient in a private cause of action for injuries suffered as a result of such deprivation. Upon a finding that a patient has been deprived of such a right or benefit, and that the patient has been injured as a result of such deprivation, damages shall be assessed in the amount sufficient to compensate such patient for such injury. In addition, where the deprivation of any such right or benefit is found to have been wilful or in reckless disregard of the rights of the patient, punitive damages may be assessed. A patient may also maintain an action pursuant to this section for any other type of relief, including injunctive and declaratory relief, permitted by law. Exhaustion of any available administrative remedies shall not be required prior to commencement of suit under this section.

(f) In addition to the rights specified in subsections (b), (c) and (d) of this section, a patient in a nursing home facility is entitled to have the facility manage **[**his or her**]** the patient's funds as provided in section

19a-551.

Sec. 162. Subsection (c) of section 19a-571 of the general statutes is repealed and the following is substituted in lieu thereof:

(c) In the case of an infant, as defined in 45 CFR 1340.15 (b), the physician or licensed medical facility shall comply with the provisions of 45 CFR 1340.15 (b)(2) in addition to the provisions of subsection (a) of this section.

Sec. 163. Section 20-241 of the general statutes is repealed and the following is substituted in lieu thereof:

All barber shops and barber schools shall be inspected regarding their sanitary condition by the Department of Public Health whenever the department deems it necessary, and any authorized representative of the department shall have full power to enter and inspect any such shop or school during usual business hours. If any barber shop or barber school, upon such inspection, is found to be in an **[**insanitary**]** unsanitary condition, the commissioner or **[**his**]** the commissioner's designee shall make written order that such shop or school be placed in a sanitary condition.

Sec. 164. Section 20-250 of the general statutes is repealed and the following is substituted in lieu thereof:

[The following terms when**]** As used in this chapter, **[**shall have the following meanings**]** unless the context otherwise **[**indicates**]** requires:

(1) "Board" means the **[**board of examiners**]** Connecticut Examining Board for Barbers, Hairdressers and Cosmeticians established under section 20-235a;

(2) "Commissioner" means the Commissioner of Public Health;

(3) "Department" means the Department of Public Health;

(4) "Hairdressing and cosmetology" means the art of dressing,

arranging, curling, waving, weaving, cutting, singeing, bleaching and coloring the hair and treating the scalp of any person, and massaging, cleansing, stimulating, manipulating, exercising or beautifying with the use of the hands, appliances, cosmetic preparations, antiseptics, tonics, lotions, creams, powders, oils or clays and doing similar work on the face, neck and arms, and manicuring the fingernails and, for cosmetic purposes only, trimming, filing and painting the healthy toenails, excluding cutting nail beds, corns and calluses or other medical treatment involving the foot or ankle, of any person for compensation, provided nothing in this **[**definition**]** subdivision shall prohibit an unlicensed person from performing facials, eyebrow arching, shampooing or braiding hair;

(5) "Registered hairdresser and cosmetician" means any person **[**(A)**]** who (A) has successfully completed the ninth grade or **[**(B) who**]** has passed an equivalency examination, evidencing such education, prepared by the Commissioner of Education and conducted by the Department of Public Health, and **[**who**]** (B) holds a license to practice as a registered hairdresser and cosmetician; and

(6) "Student" means any person who is engaged in learning or acquiring a knowledge of hairdressing and cosmetology at a school approved in accordance with the provisions of this chapter who has successfully completed ninth grade or its equivalent. The provisions of this **[**section**]** subdivision shall not apply to schools conducted by the State Board of Education.

Sec. 165. Section 20-252 of the general statutes is repealed and the following is substituted in lieu thereof:

No person shall engage in the occupation of registered hairdresser and cosmetician without having obtained a license from the department. Persons desiring such licenses shall apply in writing on forms furnished by the department. No license shall be issued, except a renewal **[**certificate**]** of a license, to a registered hairdresser and cosmetician unless the applicant has shown to the satisfaction of the

department that [he] the applicant has complied with the laws and the regulations [of] administered or adopted by the department. No applicant shall be licensed as a registered hairdresser and cosmetician, except by renewal of a license, until [he] the applicant has made written application to the department, setting forth by affidavit that [he] the applicant has successfully completed the eighth grade or [he] has passed an equivalency examination, evidencing such education, prepared by the Commissioner of Education and conducted by the Department of Public Health and that [he] the applicant has completed a course of not less than fifteen hundred hours of study in a school approved in accordance with the provisions of this chapter or in a school teaching hairdressing and cosmetology under the supervision of the State Board of Education and until [he] the applicant has passed a written examination satisfactory to the department. Examinations required for licensure under this chapter shall be prescribed by the department with the advice and assistance of the board and shall be administered by the department under the supervision of the board. The department shall establish a passing score for examinations with the advice and assistance of the board which shall be the same as the passing score established in section 20-236.

Sec. 166. Section 20-253 of the general statutes is repealed and the following is substituted in lieu thereof:

License or examination fees shall be paid to the department at the time of application as follows: (1) For examination as a registered hairdresser and cosmetician, the sum of fifty dollars; and (2) for annual renewal of any hairdresser and cosmetician license, the sum of twenty-five dollars. Each person engaged in the occupation of registered hairdresser and cosmetician shall, at all times, conspicuously display [his] such person's license within the place where such occupation is being conducted. All hairdresser and cosmetician licenses, except as otherwise provided in this chapter, shall expire in accordance with the provisions of section 19a-88. No person shall carry on the occupation of hairdressing and cosmetology after the expiration of [his] such person's license until [he] such person has made application to [said]

the department for the renewal of such license. Such application shall be in writing, addressed to [said] the department and signed by the person applying for such renewal. [Said] The department may renew any hairdresser and [cosmetician's] cosmetician license if application for such renewal is received by [said] the department within ninety days after the expiration of such license.

Sec. 167. Section 20-257 of the general statutes is repealed and the following is substituted in lieu thereof:

[Each operator or] Any registered hairdresser and cosmetician licensed under the provisions of this chapter, who rents, loans or allows the use of [his] such license to any person, or who aids or abets the practice of hairdressing and cosmetology by an unlicensed person, shall be fined not more than one hundred dollars and shall forfeit [his] such license.

Sec. 168. Section 20-258 of the general statutes is repealed and the following is substituted in lieu thereof:

All hairdressing shops shall be inspected regarding their sanitary condition by the [Department of Public Health] department whenever the department deems it necessary, and any authorized representative of the department shall have full power to enter and inspect any such shop during usual business hours. If any hairdressing shop, upon such inspection, is found to be in an unsanitary condition, the commissioner, or [his] the commissioner's designee, shall make written order that such shop be placed in a sanitary condition. No person, other than a person operating a hairdressing shop on May 17, 1982, may operate any hairdressing shop unless such person has been licensed as a registered hairdresser and cosmetician for not less than two years.

Sec. 169. Section 20-259 of the general statutes is repealed and the following is substituted in lieu thereof:

Each [such registered] hairdressing shop, store or place shall be

under the management of a registered hairdresser and cosmetician.

Sec. 170. Section 20-260 of the general statutes is repealed and the following is substituted in lieu thereof:

No person **[**who is not licensed under the provisions of this chapter shall**]** may engage in the cutting, styling or arranging of hair in any hairdressing shop, store or place **[**registered under the provisions of section 20-258**]** without a license issued under the provisions of this chapter.

Sec. 171. Section 20-263 of the general statutes is repealed and the following is substituted in lieu thereof:

The **[**Commissioner of Public Health or his**]** commissioner or a representative designated by **[**him**]** the commissioner may investigate any alleged violation of the provisions of this chapter and, if there appears to be reasonable cause therefor, on reasonable notice to any person accused of any such violation, may refer the matter to the board for hearing; may make complaint to the prosecuting authority having jurisdiction of any such complaint or may examine into all acts of alleged abuse, fraud, or incompetence. The board may suspend the license of any **[**operator,**]** registered hairdresser and cosmetician, **[**or any shop registration or school license,**]** and may revoke the hairdresser and cosmetician license **[**or shop registration**]** of any person convicted of violating any provision of this chapter or any regulation adopted **[**hereunder**]** under this chapter or take any of the actions set forth in section 19a-17 for any of the following reasons: (1) The employment of fraud or deception in obtaining a license; (2) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (3) engaging in fraud or material deception in the course of professional services or activities; (4) physical or mental illness, emotional disorder or loss of motor skill, including, but not limited to, deterioration through the aging process; **[**,**]** or (5) illegal, incompetent or negligent conduct in the course of professional activities. The **[**Commissioner of Public Health**]** commissioner may order a license holder to submit to a

reasonable physical or mental examination if [his] the physical or mental capacity of the license holder to practice safely is the subject of an investigation. [Said] The commissioner may petition the superior court for the judicial district of Hartford to enforce such order or any action taken pursuant to section 19a-17. No license [or shop registration] issued pursuant to this chapter shall be revoked or suspended under this section until the licensee [or registrant] has been given notice and opportunity for hearing as provided in the regulations adopted by the [Commissioner of Public Health] commissioner.

Sec. 172. Subsection (a) of section 21a-79a of the general statutes, as amended by public act 01-43, is repealed and the following is substituted in lieu thereof:

(a) Notwithstanding the provisions of section 21a-79 and any regulations adopted under said section, the Commissioner of Consumer Protection may, within available appropriations, establish a pilot program for the test audit of alternative electronic retail pricing systems that maintain and display the item and unit price of consumer commodities, as defined in subsection (a) of section 21a-79. The commissioner shall select one or more retailers to participate in any such pilot program in accordance with the following requirements: [(1)] A retailer participating in the pilot program shall conduct business from one or more stores in this state on October 1, 2001. The retailer shall submit to the commissioner a written request to participate in the pilot program and pay all costs associated with a test audit under such pilot program. The retailer or retailers shall implement a system to be test audited that, at a minimum, (1) maintains the retailer's current item prices and unit prices for each product in an electronic database, (2) prints shelf tags that meet all applicable requirements for item pricing and unit pricing in effect on October 1, 2001, and (3) operates in such a way that (A) price decreases are immediately transmitted directly to the point of sale, and (B) price increases are transmitted to the point of sale only after such shelf tags are posted and such posting has been verified in the electronic

database.

Sec. 173. Subsection (a) of section 22a-43 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The commissioner or any person aggrieved by any regulation, order, decision or action made pursuant to sections 22a-36 to 22a-45, inclusive, by the commissioner, a district or municipality or any person owning or occupying land which abuts any portion of land within, or is within a radius of ninety feet of, the wetland or watercourse involved in any regulation, order, decision or action made pursuant to said sections may, within the time specified in subsection (b) of section 8-8 from the publication of such regulation, order, decision or action, appeal to the superior court for the judicial district where the land affected is located, and if located in more than one judicial district to the court in any such judicial district. Such appeal shall be made returnable to said court in the same manner as that prescribed for civil actions brought to said court, except that the record shall be transmitted to the court within the time specified in subsection (h) of section 8-8. If the inland wetlands agency or its agent does not provide a transcript of the stenographic or the sound recording of a meeting where the inland wetlands agency or its agent deliberates or makes a decision on a permit for which a public hearing was held, a certified, true and accurate transcript of a stenographic or sound recording of the meeting prepared by or on behalf of the applicant or any other party shall be admissible as part of the record. Notice of such appeal shall be served upon the inland wetlands agency and the commissioner. The commissioner may appear as a party to any action brought by any other person within thirty days from the date such appeal is returned to the court. The appeal shall state the reasons upon which it is predicated and shall not stay proceedings on the regulation, order, decision or action, but the court may on application and after notice grant a restraining order. Such appeal shall have precedence in the order of trial.

Sec. 174. Subsection (b) of section 22-380h of the general statutes, as

amended by section 4 of public act 01-87, is repealed and the following is substitute in lieu thereof:

(b) In order to be certified by the commissioner as a participating veterinarian, the veterinarian shall: (1) Perform all spay and neuter surgical procedures in a veterinary hospital facility or mobile clinic equipped for such procedures located in this state that meets the standards set forth in regulations adopted by the commissioner, as provided in section 20-196; (2) make all records pertaining to care provided, work done and fees received for or in connection with the program available for inspection by the commissioner or the commissioner's **[**representative**]** designee; (3) maintain records in accordance with regulations adopted under section 19a-14; and (4) hold a currently valid license to practice veterinary medicine in this state issued by the **[**Connecticut**]** Department of Public Health.

Sec. 175. Subsection (d) of section 22-380h of the general statutes, as amended by section 4 of public act 01-87, is repealed and the following is substituted in lieu thereof:

(d) Complaints received by the commissioner or the commissioner's **[**representative**]** designee regarding services provided by participating veterinarians shall be referred to the Board of Veterinary Medicine of the Department of Public Health.

Sec. 176. Subsection (e) of section 22a-438 of the general statutes is repealed and the following is substituted in lieu thereof:

(e) Any person who **[**or municipality which**]** wilfully or with criminal negligence discharges gasoline in violation of any provision of this chapter, shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years or both. A subsequent conviction for any such violation shall carry a fine of not more than one hundred thousand dollars per day for each day of violation or imprisonment for not more than ten years or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal officer.

Sec. 177. Subsection (a) of section 32-16 of the general statutes, as amended by section 2 of public act 01-96, is repealed and the following is substituted in lieu thereof:

(a) (1) The authority may **[**(1)**]** (A) upon application of the proposed mortgagee, insure and make advance commitments to insure all or a portion of mortgage payments required by a mortgage on any **[**(A)**]** (i) economic development project, exclusive of machinery, equipment, furniture, fixtures and other personal property, or **[**(B)**]** (ii) any information technology project, and **[**(2)**]** (B) upon application of a borrower, insure and make advance commitments to insure, (i) all or a portion of loan payments required for an information technology project, (ii) a loan for an economic development project used for manufacturing, industrial, research, retail, small business, product development, product warehousing, distribution or other purposes which will create or retain jobs, maintain or diversify industry, including new or emerging technologies, or maintain or increase the tax base, or (iii) a secured or unsecured working capital loan necessary for the start-up or continuation of such a project, upon such terms and conditions as the authority may prescribe, provided the aggregate amount of contracts of insurance or advance commitments issued under this section, together with contracts of insurance or advance commitments insured under subsection (b) or (d) of this section, outstanding at any one time shall not exceed four times the sum of the amounts available in the Mortgage and Loan Insurance Fund plus the amount of any unpaid grants authorized to be made by the Department of Economic and Community Development to the authority for deposit in such fund which remain available for purposes of the fund pursuant to the bond authorization in section 32-22, provided the amount of any such contract of insurance or advance commitment shall be measured by the portion of unpaid principal which is insured by the authority and shall exclude for purposes of such limitation the amount of any contract of insurance or advance commitment to the extent that the liability of the authority with respect thereto has been reinsured by, or participated in by, an eligible

financial institution with a long-term credit rating equal to or higher than that of the state. The aggregate amount of principal obligations of all mortgages and loans so insured shall not constitute indebtedness of the state of Connecticut for purposes of computing the debt limit under section 3-21, provided bonds authorized to be issued pursuant to section 32-22 shall constitute indebtedness of the state of Connecticut for such purposes, whether or not obligations of the state of Connecticut are issued and outstanding in anticipation of the sale of such bonds. Any contract of insurance executed by the authority under this section shall be conclusive evidence of eligibility for such mortgage or loan insurance, and the validity of any contract of insurance so executed or of an advance commitment to insure shall be incontestable in the hands of an approved mortgagee or lender from the date of the execution of such contract of insurance or advance commitment, except for **[**(A)**]** (I) fraud or misrepresentation on the part of such approved mortgagee or lender, or **[**(B)**]** (II) noncompliance with the terms of the contract of insurance or advance commitment and authority written procedures in force at the time of issuance of the contract or the advance commitment.

(2) To be eligible for insurance under the provisions of this chapter, a mortgage or agreement for the extension of credit or making of a loan by the authority or other lender shall: **[**(i)**]** (A) Be one which is made to and held by the authority or an eligible financial institution approved by the authority as responsible and able to service the mortgage or loan properly; **[**(ii)**]** (B) in the case of a mortgage under subparagraph (A) of subdivision (1) of **[**subsection (a) of this section**]** this subsection, involve principal not to exceed twenty-five million dollars for any one economic development project exclusive of machinery, equipment, furniture, fixtures and other personal property, and not to exceed ninety per cent of the cost of such project, except that the authority may insure a portion of a mortgage or agreement for the extension of credit or making of a loan by the authority that otherwise satisfies the requirements of this section and the requirements prescribed by the authority by written procedure if such mortgage or

agreement involves principal in excess of twenty-five million dollars, provided any approved contract of insurance shall not exceed twenty-five million dollars and in the case of a loan under subparagraph (B) of subdivision **[**(2)**]** (1) of **[**subsection (a) of this section**]** this subsection, involve principal not to exceed ten million dollars; **[**(iii)**]** (C) have a maturity satisfactory to the authority but in no case later than twenty-five years from the date of the issuance of the insurance; **[**(iv)**]** (D) contain amortization provisions satisfactory to the authority requiring payments by the borrower or mortgagor, not in excess of the borrower's or mortgagor's reasonable ability to pay as determined by the authority; **[**(v)**]** (E) be in such form and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens and other matters as the authority may prescribe.

Sec. 178. Section 3 of public act 01-46 is repealed and the following is substitute in lieu thereof:

Any person, firm or corporation required to register as a home heating oil dealer pursuant to section 1 of **[**this act**]** public act 01-46 that offers plumbing or heating work service shall submit evidence, deemed satisfactory by the Commissioner of Consumer Protection, when registering, that such person, firm or corporation subcontracts with or employs only persons licensed or registered pursuant to chapter 393 of the general statutes to perform such work. Such person, firm or corporation shall attest, when applying for registration as a dealer pursuant to section 1 of **[**this act**]** public act 01-46, that all plumbing or heating work service shall be performed in accordance with the provisions of chapter 393 of the general statutes. Anyone registered under this section who offers such plumbing or heating services shall display the state license number of the subcontractor or **[**employer**]** employee performing such work for the registrant on all commercial vehicles used in their business and shall display such number in a conspicuous manner on all printed advertisements, bid proposals, contracts, invoices and stationery used in the business.

Sec. 179. Sections 16-19i, 16-19r, 16-19s, 16-19t and 19a-490c of the general statutes are repealed."

In line 2852, after "passage" insert ", except that sections 174 and 175 shall take effect October 1, 2001"